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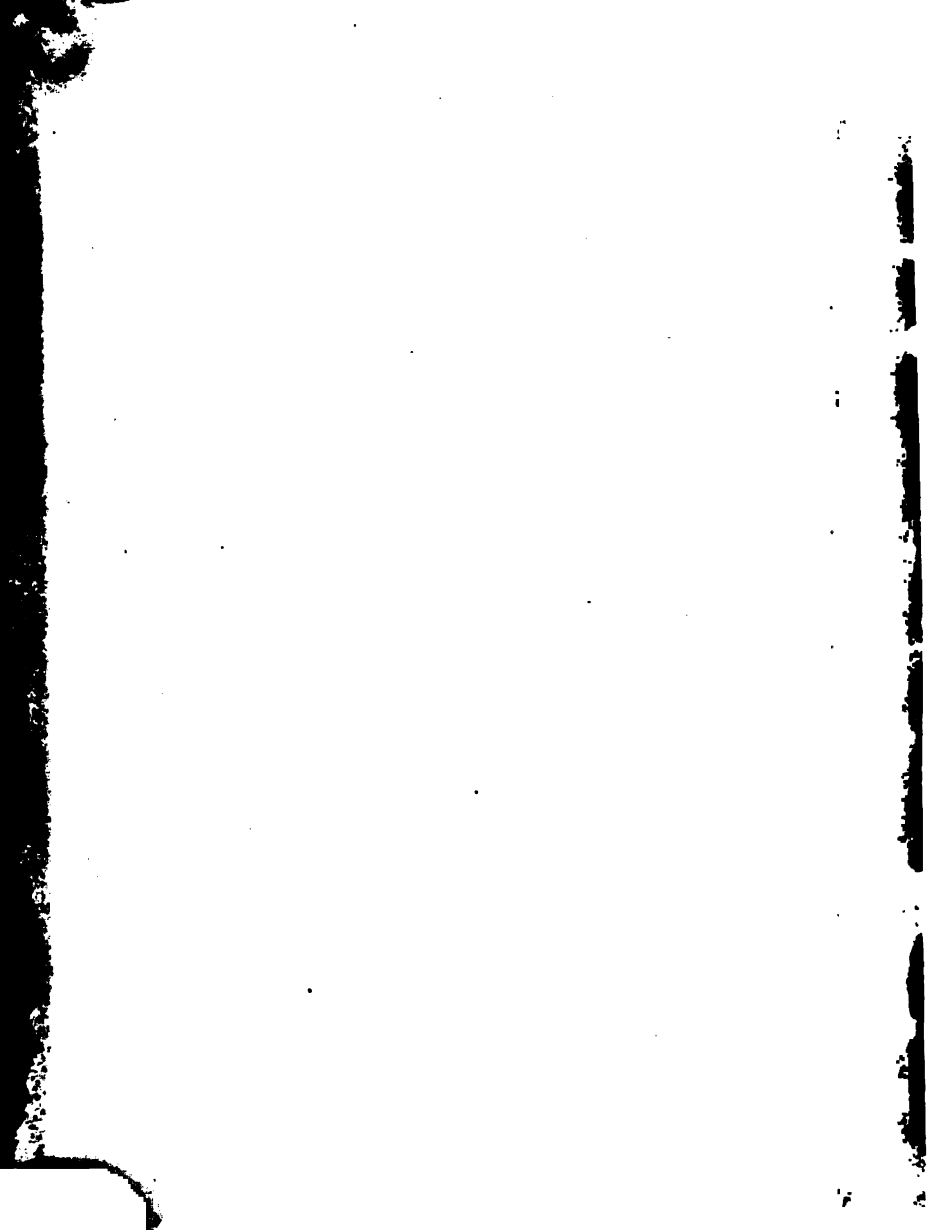
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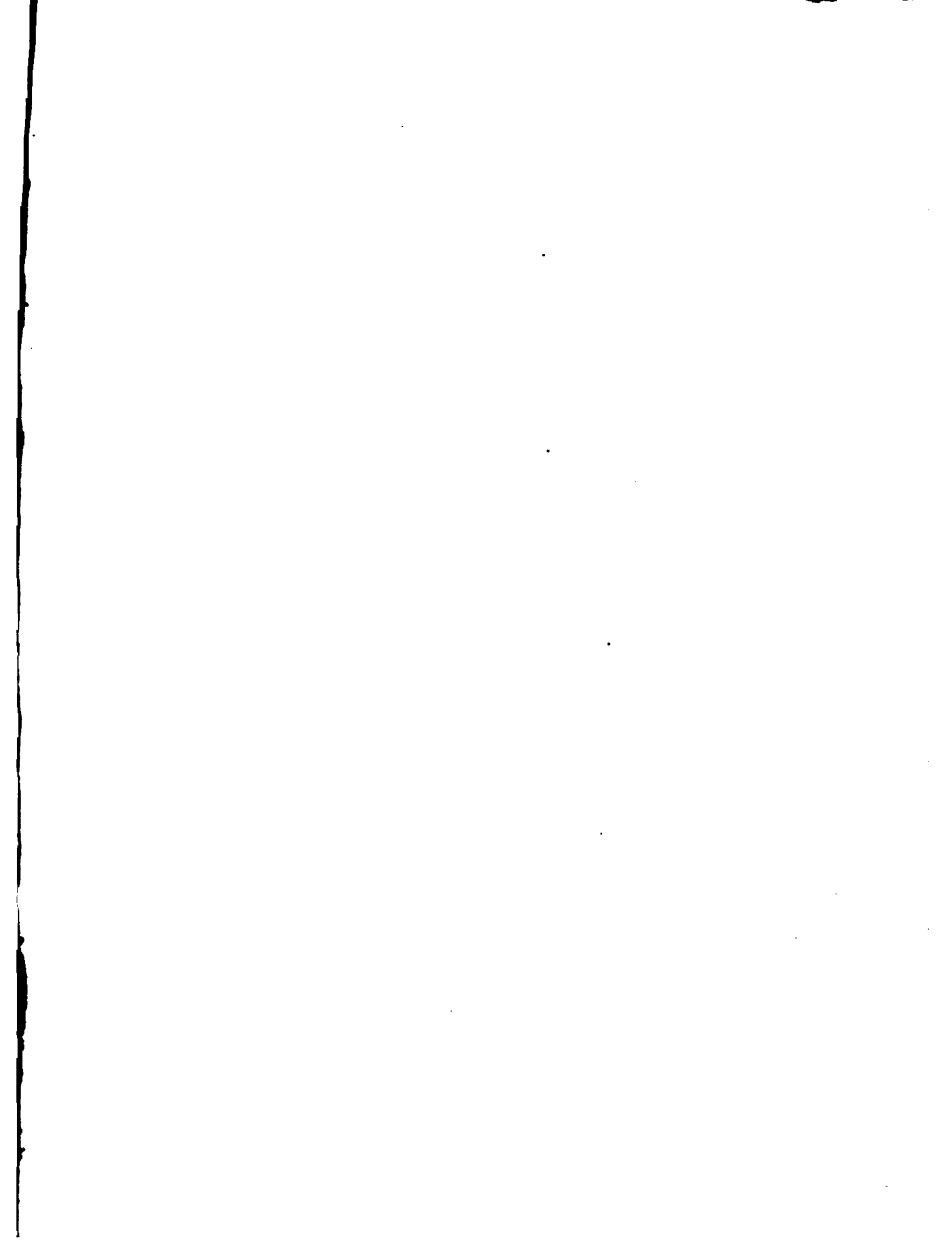
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GENERAL LAWS

OF

CALIFORNIA.

AS AMENDED UP TO THE END OF THE SESSION OF 1909.

CONTAINING THE LAWS THAT ARE IN COMMON USE IN FULL,
WITH REFERENCES TO OTHER GENERAL LAWS IN FORCE,
AND ALSO TO SPECIAL LAWS, WITH STATUTORY
HISTORY AND CITATIONS UP TO AND INCLUDING
VOLUME 154 CALIFORNIA REPORTS AND
VOLUME 9 CALIFORNIA APPELLATE
REPORTS.

EDITED BY

JAMES H. DEERING,

Of the San Francisco Bar.

SAN FRANCISCO:

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1909.

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GENERAL LAWS

OF THE

STATE OF CALIFORNIA.

TITLE 1.

ABORTION.

ACT 1.

To suppress injurious publications. [Stats. 1858, p. 204.]

This was an act to prevent advertising to procure abortions. It was superseded by Penal Code, § 817.

TITLE 2.

ACCORD AND SATISFACTION.

ACT 6.

For the relief of debtors. [Stats. 1867-68, p. 31.]

This act permitted the discharge of the whole of a debt on payment of part. It was superseded by Civil Code, §§ 1521-1524.
Citations. Cal. 45/871.

TITLE 3.

ACCOUNTANTS.

ACT 11.

An act to create a state board of accountancy and prescribe its duties and powers; to provide for the examination of and issuance of certificates to qualified applicants, with the designation of certified public accountant; and to provide the grade of penalty for violations of the provisions hereof.

[Approved March 23, 1901. Stats. 1901, p. 645.]

§1. Within thirty days after the passage of this act the governor shall appoint five persons, at least three of whom shall be competent and skilled public accountants who shall have been in practice as such in this state for not less than five consecutive years, to constitute and serve as a state board of accountancy. The members of such board shall, within thirty days after their appointment, take and subscribe to the oath of office as prescribed by the Political Code, and file the same with the secretary of state. They shall hold office for four years, and until their successors are appointed and qualified; save and except that one of the members of the board first to be appointed under this act shall hold office for one year; one for two years; one for three years, and two for four years. Any vacancies that may occur, from any cause, shall be filled by the governor for the unexpired term; provided, that all appoint-

ments made after the first year must be made from the roll of certificates issued and on file in the office of the governor.

§ 2. The state board of accountancy shall have its office in the city and county of San Francisco, and its powers and duties shall be as follows:

1. To formulate rules for the government of the board and for the examination of and granting of certificates of qualification to persons applying therefor;

2. To hold written examinations of applicants for such certificates, at least semi-annually, at such places as circumstances and applications may warrant;

3. To grant certificates of qualification to such applicants as may, upon examination, be found qualified in "theory of accounts," "practical accounting," "auditing," and "commercial law," to practice as certified public accountants;

4. To charge and collect from all applicants such fee, not exceeding twenty-five dollars, as may be necessary to meet the expenses of examination, issuance of certificates and conducting its office; provided, that all such expenses, including not exceeding five dollars per day for each member while attending the sessions of the board or conducting examinations, must be paid from the current receipts, and no portion thereof shall ever be paid from the state treasury;

5. To require the annual renewal of all such certificates, and to collect therefor a renewal fee of not exceeding one dollar;

6. To revoke for cause any such certificate, after written notice to the holder, and a hearing being had thereon; provided, that such revocation must receive the affirmative vote of at least four members of the board;

7. To report annually to the governor, on or before the first day of December, all such certificates issued or renewed, together with a detailed statement of receipts and disbursements; provided, that any balance remaining in excess of the expenses incurred may be retained by the board and used in defraying the future expenses thereof;

8. The board may, in its discretion, under regulations provided by its rules, waive the examination of applicants possessing the qualifications mentioned in section three, who shall have been for more than three years prior to the passage of this act practicing in this state as public accountants on their own account, and who shall, in writing, apply for such certificates within one year thereafter.

§ 3. Any citizen of the United States, or any person who has duly declared his intention of becoming such citizen, residing and doing business in this state, being over the age of twenty-one years and of good moral character, may apply to the state board of accountancy for examination under its rules, and for the issuance to him of a certificate of qualification to practice as a certified public accountant, and upon the issuance and receipt of such certificate, and during the period of its existence, or of any renewal thereof, he shall be styled and known as a certified public accountant or expert of accounts, and no other person

shall be permitted to assume and use such title or to use any words, letters or figures to indicate that the person using the same is a certified public accountant.

§4. Any violation of the provisions of this act shall be deemed a misdemeanor.

§5. This act shall take effect from and after its passage.

TITLE 4.

ACKNOWLEDGMENTS.

The legislature at various times has passed statutes validating acknowledgments: See Civil Code, § 1207.

Consult the following acts in this connection:

ACT 16.

Legalizing acknowledgments of deeds. [Stats. 1852, p. 166.]

This act legalized acknowledgments taken by recorders before March 26, 1851.

ACT 17.

To legalize certain acknowledgments. [Stats. 1859, p. 212.]

This act legalized acknowledgments taken by deputy clerks of the superior court and deputy county recorders.

ACT 18.

Concerning certain acknowledgments of deeds and other instruments in writing, affecting real estate. [Stats. 1860, p. 179.]

This act provided for correcting defective certificates. It was superseded by Civil Code, § 1202.

ACT 19.

To legalize certain acknowledgments, required by section 2 of an act to provide for the formation of chambers of commerce, boards of trade, mechanics' institutes and similar protective associations. [Stats. 1885, p. 55.]

This act appears in full in Civil Code, Appendix, p. 753.

ACT 20.

To legalize certain acknowledgments. [Stats. 1891, p. 20.]

Superseded 1897, p. 29.

This act legalized acknowledgments by court commissioners.

Citations. Cal. 97/483; 103/145.

ACT 21.

To legalize certain acknowledgments. [Stats. 1897, p. 29.]

This act legalized acknowledgments before court commissioners and county clerks.

**TITLE 5.
ADOPTION.****ACT 26.**

Providing for the adoption of minors and the legitimizing children born out of wedlock. [Stats. 1869-70, p. 530.]

Superseded by Civil Code.

Citations. Cal. 81/420, 441, 446.

ACT 27.

To authorize managers of orphan asylums to give their consent to the adoption of children under their care. [Stats. 1877-78, p. 963.]

See Civ. Code, § 224.

Citations. Cal. 65/382; 80/218, 219.

**TITLE 6.
ADULTERATION.****ACT 29.**

An act to prevent the manufacture, sale or transportation of adulterated, mislabeled or misbranded foods and liquors and regulating the traffic therein, providing penalties, establishing a state laboratory for foods, liquors and drugs and making an appropriation therefor. [Approved March 11, 1907. Stats. 1907, p. 208. Amended 1909, p. 51; 1909, p. 353.]

This act appears in full in Penal Code, Appendix, p. 789.

ACT 30.

An act for the prevention of the manufacture, sale or transportation of adulterated, mislabeled or misbranded drugs, regulating the traffic in drugs and providing penalties for violation thereof. [Approved March 11, 1907. Stats. 1907, p. 230.]

This act appears in full in Penal Code, Appendix, p. 776.

ACT 31.

An act to prevent the adulteration of paints, oils, varnishes and pigments. [Approved March 22, 1907. Stats. 1907, p. 852.]

This act appears in full in Penal Code, Appendix, p. 788.

ACT 32.

To prevent fraud and deception in the manufacture and sale of butter and cheese. [Stats. 1881, p. 14.]

Superseded by 1895, p. 41; 1897, p. 65. See Act of 1907, p. 265, prohibiting adulteration in dairy products: Post, Act 875.

ACT 33.

To prevent deception in the manufacture and sale of butter and cheese and to secure its enforcement. [Stats. 1895, p. 41.]

Repealed in effect 1897, p. 65.

ACT 34.

To prevent deception in the manufacture and sale of butter and cheese, to secure its enforcement and to appropriate money therefor. [Stats. 1897, p. 65.]

This act is in full in the Appendix to the Penal Code, p. 756.

ACT 35.

To provide against the adulteration of food and drugs. [Stats. 1895, p. 71.]

Codified in part by § 383 of Penal Code: See Penal Code, § 383, note.

ACT 36.

To prevent the adulteration of food and liquors. [Stats. 1862, p. 484.]
Superseded by Penal Code, § 382.

ACT 37.

To prevent the sale of imitation or adulterated honey. [Stats. 1895, p. 94.]

Superseded 1897, p. 12. See post, Act 38.

ACT 38.

To prohibit the adulteration of honey, and to provide a punishment therefor. [Stats. 1897, p. 12.]

This act is in full in the Appendix to the Penal Code, p. 787.

ACT 39.

To protect and encourage the production and sale of pure and wholesome milk, and to prohibit and punish the production or sale of unwholesome or adulterated milk. [Stats. 1869-70, p. 298.]

Superseded by Penal Code, § 382.

ACT 40.

To provide for analyzing minerals, mineral waters, and other liquids, and medicinal plants, and of foods and drugs, and to prevent the adulteration of the same. [Stats. 1885, p. 43.]

This act appears in full in Political Code, Appendix, tit. "State Analyst."

ACT 41.

To regulate the sale of imitation olive oil. [Stats. 1893, p. 210.]

This act is in full in the Appendix to the Penal Code, p. 835.

ACT 42.

To prohibit and punish the sale of adulterated syrup. [Stats. 1877-78, p. 695.]

This act is in full in the Appendix to the Penal Code, p. 727.

ACT 43.

To prohibit the sale and disposal of adulterated spirituous or alcoholic liquors, wines or cider. [Stats. 1860, p. 186.]

Superseded by Penal Code, § 382.

ACT 44.

To prohibit the sophistication and adulteration of wine and to prevent fraud in the manufacture and sale thereof. [Stats. 1887, p. 46.]

This act is in full in the Appendix to the Penal Code, p. 727.

Citations. Cal. 74/29, 89, 40, 42, 48, 45; 102/164.

ACT 45.

An act to prevent deception in the manufacture and sale of California wines by establishing a uniform wine nomenclature for pure wines, and to secure its enforcement and to provide a penalty for the violation of the provisions thereof. [Approved March 6, 1907. Stats. 1907, p. 127.]

This act appears in full in Penal Code, Appendix, p. 738.

ACT 46.

An act to prohibit the use of chemicals and other materials in milk and milk products to prevent fermentation therein. [Approved March 23, 1907. Stats. 1907, p. 971.]

This act appears in full in Penal Code, Appendix, p. 773.

ACT 47.

An act to regulate the production and sale of certified milk. [Approved March 18, 1909. Stats. 1909, p. 402.]

This act appears in full in Penal Code, Appendix, p. 775.

TITLE 7.

ADULTERY.

ACT 49.

Adultery, act to punish. [Stats. 1871-72, p. 380.]

Codified by §§ 269a, 269b, Penal Code: See Penal Code, § 269a, note.

Citations. Cal. 46/52; 49/10; 71/263; 82/449; 103/497; 148/304.

TITLE 8.

AGED PERSONS.

See "Home of Adult Blind"; "Veterans' Home Association."

ACT 54.

To appropriate money for the support of aged persons in indigent circumstances. [Approved March 15, 1883. Stats. 1883, p. 380.]

Repealed 1895, p. 28.

This act provided for an appropriation of one hundred dollars for every aged

person, minor, orphan, half-orphan, or abandoned child maintained in any institution. See Act 2595.

Citations. Cal. 69/74; 77/184; 114/895; 123/151; 136/64.

TITLE 9.

AGENTS.

ACT 59.

Relating to advances, bona fide, made to agents intrusted with goods, and for the better protection of such advances. [Stats. 1877-78, p. 835.]

Repealed 1880, p. 120.

Citations. Cal. 66/808, 809.

TITLE 10.

AGRICULTURE.

See "Fruit Trees and Vines"; "Horticulture"; "Silk Culture"; "Viticulture."

ACT 62.

An act to provide for the improvement of cereal crops of California, and appropriate money therefor. [Approved March 8, 1909. Stats. 1909, p. 190.]

This act provided for investigations and experiments under the supervision of the director of the agricultural experiment station for the University of California. Former acts on the same subject can be found in Stats. 1905, p. 128, and 1907, p. 204.

ACT 63.

An act making an appropriation for the erection and construction of buildings and equipping the fair grounds owned by or under the jurisdiction and control of the California State Agricultural Society, for exposition and state fair purposes and for the payment of other expenses incidental and relating thereto, prohibiting gambling of all kinds upon the grounds and premises under the control of said California State Agricultural Society, and providing a penalty for gambling or gaming thereon, and providing that certain moneys now in the state treasury may be used in connection with this appropriation for such purposes. [Stats. 1905, p. 793.]

ACT 64.

An act to authorize state agricultural societies under the control of the state to sell property held by them in fee, or held by trustees for their use, or in which they may have any interest; to prescribe a course of procedure therefor; to indemnify purchasers at such sale, and to direct how the proceeds shall be applied.

[Approved February 25, 1897. Stats. 1897, p. 30. Amended 1899, p. 106.]

Compare Act of 1905, p. 798.

§ 1. Whenever any state agricultural society under state control shall desire to sell the whole or any portion of its real estate held by it

in fee, or by a trustee for its use, or in which it may have any title, interest, or claim, it shall be lawful for such society or association to file its complaint in the superior court of the county in which such lands are situated, setting forth the nature of the title under which the land to be affected by the decree of the court is held, and what claim such society or association has therein; and that it is the desire of such society or association to sell such real estate, and praying for judgment authorizing it to sell the same. In such action the trustee or trustees holding title in trust for such society or association, or their successors, or the survivor or survivors of them, or such other persons deriving title from the trustees, as the case shall require, shall be made parties defendant; and upon the service of the summons upon such defendants personally or by publication, or upon their appearance, the court shall have full jurisdiction in the premises. Such society or association may include as defendants in such action in addition to such persons or parties as appear of record to have, and other persons or parties who are known to have, some claim in or lien on the lands described in the complaint; also all other persons or parties unknown, claiming any right, interest, or lien in such land, and the plaintiff may describe such defendants in the complaint as follows:

"Also all other persons or parties, unknown, claiming any right, title, estate, lien, or interest in the real estate described in the complaint herein." Service of the summons may be had upon all such unknown persons or parties defendant by publication, as provided by law in case of nonresident defendants. All such unknown persons or parties so served shall have the same rights as are provided by law in case of all the other defendants upon whom service is made by publication or personally and the action shall proceed against such unknown persons or parties in the same manner as against the defendants who are named, upon whom service is made by publication, and with like effect; and any such unknown persons or parties who have or claim any right, estate, lien, or interest in the said property in controversy at the time of the commencement of the action, duly served as aforesaid, shall be bound and concluded by the judgment in such action as effectually as if the action was brought against such defendant by his or her name, and personal service of the summons obtained, notwithstanding any such unknown person may be under legal disability. The court shall have full power and authority to order the property sold. In case of a sale, the court shall appoint a commissioner to make the sale, and shall direct the manner in which the sale shall be conducted; provided, that when any property is held in trust by any such agricultural society or association, such property held in trust shall be sold separately from any that may be held in fee. The commissioner shall make a report of sale to the court, which, after such notice as it may deem proper, shall proceed to hear the same, and if it finds that the sale was fairly conducted, and the price bid was proportionate to the value of the land sold, it shall make and enter a decree confirming the sale, and directing the commissioner to execute a deed to the purchaser. The deed executed by said commissioner, under and in pursuance of the decree of the court, shall be

valid and effectual to convey to the purchaser an absolute title in fee simple to the premises; provided, however, that before the filing of any such complaint in the superior or any other court, it shall be necessary for such agricultural society, or any person or corporation claiming the title to such land, to prepare, sign, and properly acknowledge a good and sufficient deed or deeds sufficient to vest in the state all title, interest, or claim which such society may have in and to any land to be affected by the proceedings hereby authorized to be instituted; such deed or deeds to be conditioned that the title, claim, or interest of such society embraced in such deed or deeds shall be held by the state of California in trust for the benefit of such society; which said deed or deeds shall be deposited with the state treasurer, to be by him held in escrow pending the final conclusion of such proceedings in such court. If the court in which such proceedings are had shall order such land to be sold, as herein provided for, the state treasurer shall forthwith file such deed or deeds with the county recorder of the county, or city and county, in which such land is located. If there be any liens upon or claims against the property, the court shall order them paid out of the proceeds of sale. The residue remaining, after paying the costs and expenses of sale and such liens and claims against the property as the court may order paid, shall be paid into the state treasury, where it shall remain until required for the purchase of other property for the use of such society or association, upon the order of the state controller; and it shall be drawn therefrom only upon authorization passed by the board of directors or trustees of such society or association, by and with the approval of the state board of examiners, and upon warrants duly drawn by the state controller. If, through any defects in the proceedings, or otherwise, the title should not pass, the state will indemnify the purchaser by repaying to him the amount paid by him; provided, such purchaser or purchasers shall file their claim or claims for the repayment of such purchase price with the state board of examiners within five years after the payment of such purchase price to the state treasurer in the first instance. The surplus of proceeds of sale, paid into the state treasury, shall be drawn out on certificate, signed by a majority of the directors, or governing body of such society or association, and also of the state board of examiners, stating that it is desired for the payment for other property for the use of such agricultural society; and upon receipt of such certificate, the treasurer shall pay to the said directors, or governing body, or person designated by them, all or such part of such surplus as may be required for the purchase of other property; provided, however, that if all or any portion of the real estate, and the improvements thereon held by any state agricultural society under state control, shall have been acquired in the name of such society, or of any person, association, or corporation, in trust for the use of said, or any other agricultural society, originally, or at any time, by the use of money derived from taxation of the taxable property of any city and county, county, or city, then, and in that event, the surplus proceeds of any sale of such property shall be invested in other real estate, within the same county, or city and county, for the same purpose, and not otherwise, or elsewhere. If

is expressly provided that in no event shall the state be liable for the payment of any expense, interest, or attorneys' fees, incurred by any one, on any account, by or on behalf of any such agricultural society in their behalf; and it shall be incumbent on such society to make provision for the payment of the expenses, costs, attorneys' fees, and any interest that may be necessary to be paid any purchaser, by reason of repayment of any purchase money on account of failure of title to such lands; such provision for the payment of expenses, attorneys' fees, costs, and anticipated interest to be provided for prior to the issue of any summons, or order of publication in any action contemplated by this act. [Amended March 16, 1899. Stats. 1899, p. 106.]

§ 2. If any real estate contemplated in the preceding section, purchased by the proceeds of taxes levied upon and collected from the taxable property of any city and county, county, or city, shall have been ordered sold, as in said section provided, and shall have been offered for sale in the mode therein specified, for a period of sixty days or more, and not all sold for want of an adequate price, the board of directors, or governing body of such society or association, shall be, and they are hereby authorized and empowered to exchange all or any part of such real estate for other land suitable for the use of such society, or association, within the same county, or city and county, upon such terms as may be reasonable and just, and the deed or deeds executed for the conveyance of such real estate in exchange shall be executed by the board of directors of such society or association, or a majority thereof, and by the commissioner appointed in the proceedings provided for in the preceding section for the sale of such property, and such exchange of property shall be subject to, and with the approval of a judge of the superior court of the county, or city and county, in which the proceedings provided for were had. [New section added March 16, 1899. Stats. 1899, p. 108.]

§ 3. In case of the exchange of any portion of such property, as provided for in section 2 thereof, the real estate received in such exchange shall be subject to the indemnification of any person who shall receive any of the said real estate of said agricultural society in such exchange in case of any defect in the proceedings, or otherwise, whereby the title to such real estate of such society should not pass, and in such case of exchange the state of California shall be absolved from any obligation to pay any part of any purchase price, or value of exchanged property; provided, further, that no claims for failure of title for any reason shall be entertained after five years from the date of such exchange. [New section added March 16, 1899. Stats. 1899, p. 109.]

§ 4. This act shall take effect immediately from and after its passage. Prior acts relating to agricultural societies:

ACT 65.

To incorporate a state agricultural society. [Stats. 1854, p. 56.]
Amended 1858, p. 80; 1863, p. 50. Supp. 1863, pp. 49, 259.

These acts were continued in force by Political Code, § 2826.

Citations. Cal. 121/19.

ACT 66.

Concerning agricultural societies. [Stats. 1859, p. 104.]

Amended 1862, p. 87; 1869-70, p. 31; 1877-78, p. 84.

This act provided for the formation of agricultural societies by any seven or more persons and for their powers and government.

ACT 67.

Providing for the management and control of the state agricultural society. [Stats. 1880, p. 49.]

Citations. Cal. 85/510; 121/19; 151/799, 801.

ACT 67a.

An act authorizing and directing the directors of the State Agricultural Society to make arrangements by day's work or by contract, for leveling and planting the grounds, and painting and repairing the buildings, at the State Agricultural Park, near the city of Sacramento, state of California, and making an appropriation therefor. [Approved February 26, 1909. Stats. 1909, p. 82.]

This act appropriated \$10,000 for the purpose indicated.

ACT 67b.

An act authorizing and directing the directors of the State Agricultural Society to erect a new building at Agricultural Park, near the city of Sacramento, state of California, to be known and designated machinery hall; fixing the requirements thereof and making an appropriation therefor. [Approved February 26, 1909. Stats. 1909, p. 83.]

This act appropriated \$80,000 for the purpose indicated.

ACT 68.

An act entitled an act to form agricultural districts, to provide for formation of agricultural associations therein, and for the management and control of the same by the state, and to repeal all acts and parts of acts in conflict with this act. [Approved March 31, 1897. Stats. 1897, p. 304. Amended 1901, p. 304; 1909, p. 994.]

Consult in connection with this act the Act of 1909, p. 979 [see Act 68a], which covered the same subject matter and repealed conflicting acts.

Citations. Cal. 151/804; 154/125.

ACT 68a.

An act to form agricultural districts, to provide for the formation, organization and powers, of agricultural associations therein and for the management and control of the same by the state, and repealing all acts and portions of acts in conflict with this act.

[Approved April 17, 1909. Stats. 1909, p. 979.]

Agricultural districts, numbers of.

§ 1. The several counties of this state are divided and classified into agricultural districts, and numbered as follows, to wit:

The counties of San Francisco and Alameda shall constitute agricultural district No. 1.

The county of San Joaquin shall constitute agricultural district No. 2.

The county of Butte shall constitute agricultural district No. 3.

The counties of Sonoma and Marin shall constitute agricultural district No. 4.

The counties of San Mateo and Santa Clara shall constitute agricultural district No. 5.

The county of Los Angeles shall constitute agricultural district No. 6.

The county of Monterey shall constitute agricultural district No. 7.

The county of El Dorado shall constitute agricultural district No. 8.

The county of Humboldt shall constitute agricultural district No. 9.

The county of Siskiyou shall constitute agricultural district No. 10.

The counties of Plumas and Sierra shall constitute agricultural district No. 11; provided, that the first fair held in the eleventh agricultural district after the passage of this act shall be held in Sierra county; the next fair in Plumas county, and thereafter said counties shall so alternate in holding such fairs.

The counties of Lake and Mendocino shall constitute agricultural district No. 12.

The counties of Sutter and Yuba shall constitute agricultural district No. 13.

The county of Santa Cruz shall constitute agricultural district No. 14.

The county of Kern shall constitute agricultural district No. 15.

The county of San Luis Obispo shall constitute agricultural district No. 16.

The county of Nevada shall constitute agricultural district No. 17.

The counties of Mono, Inyo, and Alpine shall constitute agricultural district No. 18.

All that portion of Santa Barbara county lying east of the Gaviota and south of the Santa Ynez mountains, shall constitute agricultural district No. 19.

The county of Placer shall constitute agricultural district No. 20.

The counties of Fresno and Madera shall constitute agricultural district No. 21.

The county of San Diego shall constitute agricultural district No. 22.

The county of Contra Costa shall constitute agricultural district No. 23.

The counties of Tulare and Kings shall constitute agricultural district No. 24.

The county of Napa shall constitute agricultural district No. 25.

The county of Amador shall constitute agricultural district No. 26.

The counties of Shasta and Trinity shall constitute agricultural district No. 27.

The counties of San Bernardino and Riverside shall constitute agricultural district No. 28.

The county of Tuolumne shall constitute agricultural district No. 29.
The county of Tehama shall constitute agricultural district No. 30.
The county of Ventura shall constitute agricultural district No. 31.
The county of Orange shall constitute agricultural district No. 32.
The county of San Benito shall constitute agricultural district No. 33.
The county of Modoc shall constitute agricultural district No. 34.
The counties of Merced and Mariposa shall constitute agricultural district No. 35.

The county of Solano shall constitute agricultural district No. 36.
All that portion of Santa Barbara county not included in agricultural district No. 19 shall constitute agricultural district No. 37.

The county of Stanislaus shall constitute agricultural district No. 38.
The county of Calaveras shall constitute agricultural district No. 39.
The county of Yolo shall constitute agricultural district No. 40.
The county of Del Norte shall constitute agricultural district No. 41.
The county of Glenn shall constitute agricultural district No. 42.
The county of Lassen shall constitute agricultural district No. 43.
The county of Colusa shall constitute agricultural district No. 44.
The county of Imperial shall constitute agricultural district No. 45.

Formation of associations.

§2. Any fifty or more persons residents of a majority of the counties embraced within any of the above districts may form an association for the purpose of holding fairs, expositions and exhibitions of all of the industries and industrial enterprises, resources and products of every kind or nature of the state with a view of improving, exploiting, encouraging and stimulating the same.

Officers.

§3. The officers of such association shall consist of eight directors to be appointed by the governor of the state of California who shall constitute a district board of agriculture for said district; provided however, where two or more counties shall constitute an agricultural district, each county shall be represented in the district board of directors by at least two resident citizens, as directors in said board; provided, that when by reason of the formation of a new agricultural district, a director of one district becomes a resident of another, his term of office as director will expire in sixty days after the formation of the new agricultural district.

Appointment of directors.

§4. After the formation of an agricultural association within any of the districts above constituted in accordance with the provisions of this act, and notice of such formation to the governor, the governor shall appoint eight resident citizens of such district as members of a district board of agriculture for said district whose term of office shall be four years, except as hereinafter provided; and thereafter there shall be two members of said board appointed in the same manner every year whose term of office shall continue four years, and until their successors are appointed and qualified.

Terms of office.

§ 5. Within ten days after their appointment the members of the board shall, by lot or otherwise, classify themselves into four classes of two members each. The term of office of the first class shall expire at the end of the first fiscal year, the second class at the end of the second fiscal year, the third class at the end of the third fiscal year and the fourth class at the end of the fourth fiscal year; provided that all officers of agricultural districts now in office, under any law heretofore passed, shall hold office for the term for which they were appointed, except in cases specified in section 3 of this act. And the agricultural associations heretofore established shall be continued in force, and are made agricultural associations under this act.

Organization.

§ 6. The fiscal year shall be from December 1st to December 1st. and the persons so appointed shall qualify as required by the constitution, and shall meet at a place within the district and organize by the election of one of their number as president of the board, who shall hold said office of president one year and until his successor is elected; they shall also elect a secretary and treasurer not of their number.

Name of association, and powers.

§ 7. Each association so formed and organized is hereby declared and shall be recognized as a state institution, and shall be known and designated by the name of — district agricultural association, and by such name and style shall have perpetual succession and shall have power to contract, to sue and to be sued, to have a seal, to purchase, to hold and lease real estate and personal property, and may sell, lease, beautify, improve and dispose of the same, and do any and all acts and things necessary to carry out the objects and purposes for which said associations are formed; and the board so appointed and qualified shall have the exclusive control and management of such institution, for and in the name of the state, and shall have possession and care of all the property of the association and shall fix the term of office and the bonds of the secretary and treasurer and determine their salaries and duties. They shall have the power to make all necessary by-laws, rules and regulations for the government of the association and the management of its prudential and financial affairs. They may provide for a fair, exposition or exhibition by the association of all industries and industrial products in the district or state, at such time and place as they deem advisable; provided, that the state, shall in no event, be liable for any premium offered or award made, or on account of any premium offered or award made, or on account of any contract made by any district board of agriculture or agricultural association; provided however, that any such agricultural association having a speedway or race course upon any lands owned by it, or under its control, shall maintain the same for the purpose of holding speed contests and training and speeding horses thereon.

Advances from state association.

§ 8. Whenever such association shall have been formed within any of the districts provided for, and it is proposed to hold an agri-

cultural fair in said district, the secretary of the board of directors of the district, shall notify the state board of agriculture of the said intention, and shall also forward to the board of agriculture a list of the articles upon which premiums are to be paid and the amount upon each item, and the said board shall have the power to advance to said association a sum not exceeding five thousand dollars (\$5,000) to pay said premiums out of any money that may have been appropriated to the said state agricultural society for that purpose, and which may at the time be available; provided, however, that no one district shall receive such aid for more than one fair in any one year.

State aid.

§ 9. The fairs or exhibitions to be given by the district agricultural association shall be held at such place or places within such districts, as the board of directors of the said district may select. But only one of such district fairs shall receive state aid in any district during any given year, and the money provided by the state as premium money shall be applied to exhibits at this one fair; provided however, whenever the board of directors of two or more agricultural districts shall, by a majority vote of each board, elect to unite, the several districts may associate and combine as one district, and hold a fair in any of said districts that may be agreed on by the board of directors of said associations so combining, and may for such purpose draw the appropriation for all the said districts, and expend the same for said fair.

Reports to state association.

§ 10. The directors of such agricultural district herein created shall each year make a full and complete report of all transactions of the said association to the state board of agriculture.

§ 11. All acts or parts of acts in conflict with this act are hereby repealed.

§ 12. This act shall take effect immediately from and after its passage.

ACT 69.

To form agricultural districts, etc. [Stats. 1880, p. 62.]

Amended 1888, p. 80; 1885, pp. 89, 126; 1887, p. 80; 1889, p. 78; and partly, if not wholly, repealed by 1891, p. 138; 1895, p. 14.
Citations. Cal. 151/799, 801; 154/121.

ACT 70.

To form agricultural districts, and provide for the management and control of the same. [Stats. 1891, p. 138.]

Amended 1893, p. 282; 1895, pp. 14, 100.
Citations. Cal. 151/804; 154/124.

ACT 71.

For the encouragement of agricultural and other industries. [Stats. 1871-72, p. 442.]

Probably repealed by Statutes of 1880, p. 49, and 1880, p. 62.
Citations. Cal. 151/799.

ACT 72.

Encouragement of agriculture. [Stats. 1877-78, p. 332.]

Superseded by 1880, pp. 49, 62; 1897, p. 804.
This act authorized appropriations for certain societies.
Citations. Cal. 151/799.

ACT 73.

For the better protection of fruit trees and vines. [Stats. 1880, p. 36.]

Superseded 1897, p. 244.
Citations. Cal. 151/801.

ACT 74.

An act to prevent the propagation by the production of seed, of that certain plant known as Sorghum halepense, otherwise known as Johnson grass.

[Approved March 20, 1903. Stats. 1903, p. 337. Amended 1907, p. 876.]

§ 1. It shall be unlawful for any person owning, controlling, leasing, or possessing land in the state of California to knowingly permit that certain grass known as Sorghum halepense, otherwise known as Johnson grass, Cnicus arvensis, otherwise known as Canadian thistle, Salsoli kali, otherwise known as Russian thistle, and Onopordon acanthium, otherwise known as Scotch thistle, and Cnicus lanceolatus, otherwise known as bull thistle, to mature and disseminate its seed on land so owned, leased or possessed by such person.

[Amendment approved March 22, 1907. Stats. 1907, p. 876. In effect from and after its passage.]

§ 2. It shall be unlawful for any person knowingly to sow or disseminate or cause to be sown or disseminated, any seed of Sorghum halepense, otherwise known as Johnson grass, Cnicus arvensis, otherwise known as Canadian thistle, Salsoli kali, otherwise known as Russian thistle, and Onopordon acanthium, otherwise known as Scotch thistle, and Cnicus lanceolatus, otherwise known as bull thistle, upon any land owned or possessed by another.

[Amendment approved March 22, 1907. Stats. 1907, p. 877. In effect from and after its passage.]

§ 3. It shall be unlawful for any person to knowingly sow, disseminate, or cause or permit to be disseminated any seed of Sorghum halepense, otherwise known as Johnson grass, Cnicus arvensis, otherwise known as Canadian thistle, Salsoli kali, otherwise known as Russian thistle, and Onopordon acanthium, otherwise known as Scotch thistle,

and *Cnicus lanceolatus*, otherwise known as bull thistle, over or along any roadway, highway, or right of way for ditch purposes, adjacent to premises owned or possessed by him.

[Amendment approved March 22, 1907. Stats. 1907, p. 877. In effect from and after its passage.]

§ 4. Any person upon being duly convicted of a violation of any of the preceding sections of this act, shall be deemed guilty of a misdemeanor, and may be fined in a sum not exceeding one hundred dollars, or by imprisonment in the county jail, for a term not exceeding three months.

§ 5. This act shall take effect immediately from and after its passage.

ACT 75.

An act authorizing district agricultural associations organized under the laws of the state of California, to lease lands owned, managed or controlled, in trust or otherwise, to municipal corporations, counties or cities and counties, in which such lands are situated, and repealing all acts and parts of acts in conflict herewith.

[Approved April 22, 1909. Stats. 1909, p. 1082.]

§ 1. Any district agricultural association organized, or hereafter organized under the laws of the state of California, is hereby authorized and empowered to lease lands owned, managed or controlled by said association, whether in trust or otherwise, not needed for the permanent use of said association, to any municipal corporation, county, or city and county, in which said lands are located, for a period not to exceed fifty years, for purposes not inconsistent with the objects and purposes for which said association is formed and for which said lands are held, owned, or controlled by it.

§ 2. All acts and parts of acts in conflict with this act are hereby repealed.

§ 3. This act shall take effect immediately.

TITLE 11.

ALAMEDA CITY.

ACT 79.

Opening streets in. [Stats. 1875-76, p. 424.]

Repealed 1877-78, p. 964.

ACT 80.

Streets in. [Stats. 1873-74, p. 795.]

This act related to Park Street, Santa Clara Avenue, Railroad Avenue, Buena Vista Avenue, and Third Avenue.

ACT 81.

In relation to certain streets in. [Stats. 1877-78, p. 964.]

This act related to the following streets: Santa Clara Avenue, Railroad Avenue, Versailles Avenue, Pearl Street, Broadway, Clinton Avenue, Bay Avenue, and San Jose Avenue.

Citations. Cal. 70/86.

ACT 82.

To provide funds for school department of. [Stats. 1877-78, p. 599.]

ACT 83.

Act to incorporate. [Stats. 1871-72, p. 276.]

Amended and supplemented 1874, p. 448; 1876, p. 867. Repealed 1877-78, p. 89.

ACT 84.

Incorporating. [Stats. 1877-78, p. 89.]

Superseded by incorporating, in 1884, under the Municipal Corporation Act of 1883.

TITLE 12.**ALAMEDA COUNTY.****ACT 89.**

Officers of, salaries. [Stats. 1873-74, p. 185.]

Amended 1875-76, p. 166. Repealed by County Government Act, 1897, p. 501, § 160.

ACT 90.

Fixing salaries of certain officers of. [Stats. 1871-72, p. 720.]

Repealed by County Government Act, 1897, p. 501, § 160.

This act fixed the salaries of the treasurer, the county recorder and deputy, the county clerk and deputies, and the district attorney.

ACT 91.

County assessor, abolishing office of, and creating township assessors.
[Stats. 1873-74, p. 90.]

Repealed by County Government Act, 1897, p. 452.

ACT 92.

Constables, duties of. [Stats. 1877-78, p. 105.]

Superseded by County Government Act, 1897, p. 492, §§ 153, 154.

ACT 93.

County clerk to employ additional deputies. [Stats. 1875-76, p. 365.]

Repealed by County Government Act, 1897, p. 452.

ACT 94.

To provide an additional judge for. [Stats. 1881, p. 20.]

ACT 95.

Providing for one additional judge for. [Stats. 1893, p. 3.]
Citations. Cal. 104/235, 236.

ACT 96.

To provide one additional judge for. [Stats. 1901, p. 295.]

ACT 96a.

An act to provide one additional judge of the superior court of the county of Alameda. [Approved April 6, 1909. Stats. 1909, p. 799.]

ACT 97.

Road overseers, fixing compensation of, and relating to road and poll tax.
[Stats. 1877-78, p. 109.]

Superseded by Political Code, § 2652, as amended 1891, p. 478, and County Government Act, 1897, p. 452.

ACT 98.

Salary of road overseer of Brooklyn road district. [Stats. 1877-78, p. 251.]

Repealed by Political Code, § 2642, as amended 1891, abolishing the office.

ACT 99.

Relative to the powers and duties of the sheriff of in the matter of attachments in said county. [Stats. 1877-78, p. 922.]

Modified by County Government Act, 1897, p. 501, § 160.

ACT 100.

Fixing the compensation of sheriffs, deputy sheriffs, and county jailers of. [Stats. 1877-78, p. 950.]

Repealed by County Government Act, 1897, p. 501, § 160.

ACT 101.

Deputy sheriff of, fixing compensation of. [Stats. 1873-74, p. 601.]

Repealed 1897, p. 501, § 160.

ACT 102.

Supervisors, to fix the pay of. [Stats. 1877-78, p. 736.]

Repealed by County Government Act, 1897, p. 501, § 160.

ACT 103.

Supervisors to establish a receiving hospital in Oakland. [Stats. 1877-78, p. 640.]

ACT 104.

Giving supervisors control of bridge across estuary of San Antonio.
[Stats. 1877-78, p. 3.]

ACT 105.

Executions from justice's courts. [Stats. 1877-78, p. 106.]
Repealed 1880, p. 19.

ACT 106.

Fees, regulation of. [Stats. 1875-76, p. 127.]
Repealed by fee bill (1895, p. 267) as to officers therein named.

ACT 107.

Collection of licenses in. [Stats. 1877-78, p. 255.]
Repealed by County Government Act, 1897, p. 478, § 55.

ACT 108.

Ratifying and confirming a resolution of the supervisors granting certain rights and privileges to the Berkeley Horae Railroad Company. [Stats. 1877-78, p. 136.]

ACT 109.

Transfer of school moneys to and from the state treasury by. [Stats. 1877-78, p. 170.]
Repealed by County Government Act, 1897, p. 572, § 215.

ACT 110.

Road tax in Oakland. [Stats. 1871-72, p. 4.]
Superseded.
"Road taxes can no longer be levied within municipal corporations. (County Government Act, 1897, p. 466; Miller v. County of Kern, 24 Cal. Dec. 478.)"
—Code Commissioner's Note.
This act provided that the road tax of the county of Alameda collected within the city of Oakland should be paid to the city treasury and become part of the street fund of the city.

ACT 111.

To encourage destruction of gophers and squirrels in. [Stats. 1871-72, p. 432.]
Superseded by subd. 26, § 25, County Government Act, 1897, p. 465.

ACT 112.

Squirrel nuisance, abatement of. [Stats. 1873-74, p. 321.]
Amended 1875-76, p. 388.
This act applied to Contra Costa and Alameda counties.

TITLE 13.**ALAMEDA CREEK.****ACT 117.**

Declaring navigable, and providing for the removal of obstructions therein. [Stats. 1873-74, p. 308.]
Superseded by Political Code, § 2849, as amended 1891.

TITLE 14.
ALIENS.

ACT 122.

To prohibit the issuance of licenses to aliens not eligible to become electors of the state of California. [Stats. 1880, p. 39.]

"Unconstitutional. (People v. Quong On Long, 6 Pac. O. L. J., 192; see Pol. Code, § 2666, as amended 1901, p. 685.)"—Code Commissioners' Note.

ACT 123.

To provide for indexing the names of persons who have declared their intention to become or who have become citizens of the United States, in the several courts of record in this state. [Approved February 8, 1872. Stats. 1871-72, p. 80.]

"Section 1 probably in force, section 2 superseded by fee bill of 1895, p. 267."
—Code Commissioner's Note.

ACT 124.

Relative to escheated estates. [Stats. 1856, p. 137.]

Superseded by Civil Code, §§ 671, 672.

This act provided that aliens might inherit the same as native born, but they must claim the property in five years.

ACT 125.

Prohibiting aliens from fishing in the waters of the state. [Stats. 1880, p. 123.]

Unconstitutional: *In re Ah Chong*, 5 Pac. C. L. J. 451.

ACT 126.

Relating to the appointment of aliens to office. [Stats. 1880, p. 23.]

This act forbade the appointment of aliens to office. It was probably superseded by the following act:

ACT 127.

An act to secure to native-born and naturalized citizens of the United States the exclusive right to be employed in any department of the state, county, city and county, or incorporated city or town government in this state.

[Approved March 23, 1901; Stats. 1901, p. 589.]

§1. No person, except a native-born or naturalized citizen of the United States, shall be employed in any department of the state, county, city and county, or incorporated city or town government in this state.

§2. It shall be unlawful for any person, whether elected, appointed or commissioned to fill any office in either the state, county, city and county, or incorporated city or town government of this state, or in any department thereof, to appoint or employ any person to perform any duties whatsoever, except such person be a native-born or naturalized citizen of the United States.

§ 3. No money shall be paid out of the state treasury, or out of the treasury of any county, or city and county, or incorporated city or town, to any person employed in any of the offices mentioned in section 2 of this act, except such person shall be a native-born or naturalized citizen of the United States.

§ 4. This act shall take effect immediately.

TITLE 15.

ALPINE COUNTY.

ACT 132.

Providing for payment of salaries and fees of officers of. [Stats. 1871-72, p. 703.]

Repealed by County Government Act, 1897, p. 574, § 219.

ACT 133.

Traveling fees of sheriffs of. [Stats. 1873-74, p. 236.]

Amended 1877-78, p. 872. Repealed by County Government Act, 1897, pp. 571, 572, §§ 214, 215.

ACT 134.

Treasurer of, bond of. [Stats. 1875-76, p. 140.]

Repealed by County Government Act, 1897, p. 476, § 66.

Citations. Cal. 54/536, 537, 538, 539.

ACT 135.

Tax for payment of grand and trial jurors in. [Stats. 1877-78, p. 215.]

Superseded by subds. 12 and 18, § 25, County Government Act, 1897, pp. 460, 463.

ACT 136.

Extending time for selling property for delinquent taxes. [Stats. 1875-76, p. 389.]

Repealed 1877-78, p. 783.

TITLE 16.

ALVISO CITY.

ACT 141.

To incorporate the town of Alviso. [Stats. 1852, p. 222.]

TITLE 17.

AMADOR CITY.

ACT 146.

Hogs and goats running at large in. [Stats. 1873-74, p. 905.]

Repealed 1897, p. 193.

TITLE 18.
AMADOR COUNTY.

ACT 151.

Salaries and compensation of officers of. [Stats. 1875-76, p. 370.]

Repealed by County Government Act, 1897, p. 548, § 189.

ACT 152.

Supervisors, act in relation to. [Stats. 1873-74, p. 443.]

Repealed by County Government Act, 1897, pp. 453, 492, §§ 10, 157.

ACT 153.

Revenue of. [Stats. 1873-74, p. 446.]

Superseded by subds. 12 and 18, § 25, County Government Act, 1897, pp. 460, 463.

ACT 154.

Supervisors authorized to levy an additional tax. [Stats. 1871-72, p. 172.]

Superseded by the general powers given by the County Government Acts.

ACT 155.

Providing for the payment by, to Calaveras County, of interest on a certain indebtedness; supplementing act of March 31, 1866. [Stats. 1871-72, p. 698.]

ACT 156.

To provide for the location, construction and maintenance of roads in.
[Stats. 1877-78, p. 703.]

Repealed 1888, p. 5, a. X, § 2.

ACT 157.

Authorizing supervisors to declare the portion of Amador and Nevada wagon road which lies in Amador county a toll-road. [Stats. 1877-78, p. 963.]

ACT 158.

To prevent trespassing of goats on inclosed lands in. [Stats. 1877-78, p. 536.]

TITLE 19.

AMERICAN WATER AND MINING COMPANY.

ACT 163.

Authorizing American Water and Mining Company to extend its works.
[Stats. 1860, p. 155.]

Amended 1871-72, p. 471.

TITLE 20.
ANAHEIM.

ACT 168.

Incorporation of. [Stats. 1877-78, p. 309.]

Superseded by incorporating, in 1888, under Municipal Corporation Act of 1888.

ACT 169.

Legalizing incorporation of. [Stats. 1877-78, p. 27.]

Superseded by incorporating, in 1888, under the Municipal Corporation Act of 1888.

TITLE 21.
ANATOMY.

ACT 174.

To provide for the study of anatomy. [Stats. 1863-64, p. 321.]

It was superseded by Political Code, §§ 8098-8095.

TITLE 22.
ANIMALS.

See "Cruelty to Animals," post; "Estrays," post.

ACT 177.

An act providing for the extermination of the *Boophilus annulatus* tick, defining certain crimes and providing for certain civil and criminal actions. [Approved March 21, 1907. Stats. 1907, p. 763.]

Amended 1909, p. 55.

This act prevented the sale of cattle or other livestock infested with the *Boophilus annulatus* tick.

ACT 178.

An act to prevent the spread of contagious diseases among animals.

[Approved March 20, 1905. Stats. 1905, p. 317.]

§1. Any person having the care, custody or control of any animal that dies from tuberculosis, glanders, farcy, Texas fever, or other infectious disease, shall immediately upon the death of such animal cremate or bury the same, or cause the same to be cremated or buried.

§2. Any common carrier of persons or freight that shall transport any animal suffering with or that has died from the diseases, or any of them, mentioned in section 1 of this act a greater distance than is necessary to transport such animal to the nearest crematory, shall be deemed guilty of a misdemeanor.

§3. No animal that has died of any of the diseases named in section 1 of this act, shall be sold, used or permitted to be used for the food of human beings or sold, used or permitted to be used for the food of any domestic animal or fowl.

§ 4. Any person, firm or corporation that shall violate any of the provisions of this act shall be deemed guilty of a misdemeanor, and upon a conviction thereof shall be punished by a fine of not less than \$50 and not more than \$500, or by imprisonment in the county jail for a term not exceeding 180 days, or by both such fine and imprisonment.

§ 5. This act shall take effect immediately.

See, also, act of 1905, p. 422, and Penal Code, § 402d.

ACT 179.

To prevent the spread of contagious and infectious diseases among domestic animals. [Stats. 1893, p. 302.]

Codified by § 402d, Penal Code: See Penal Code, § 402d, note.

ACT 180.

To protect domestic livestock from contagious and infectious diseases, to provide for the appointment and duties of officials to carry into effect the provisions of this act, and to provide an appropriation therefor. [Stats. 1899, p. 129.]

Amended 1905, p. 422; 1907, p. 932; 1909, p. 481.

This act created the office of state veterinarian, and prescribed his powers and duties.

ACT 180a.

An act authorizing the state veterinarian to employ during the balance of the sixtieth, and throughout the sixty-first and sixty-second fiscal years such inspectors as he may deem necessary to inspect and supervise the dipping of sheep infected with a disease known as scabies; providing for the compensation and expenses of said inspectors, and making an appropriation therefor. [Approved March 10, 1909. Stats. 1909, p. 278.]

ACT 181.

To protect sheep and Cashmere and Angora goats against ravages of dogs. [Stats. 1865-66, p. 225.]

Superseded in part by Civil Code, § 2241, and probably not in force.

ACT 182.

Providing for the retention of the hides of slaughtered cattle in certain counties. [Stats. 1863, p. 359.]

Amended 1863-64, p. 261. Probably superseded by Political Code, § 2185, and act of 1892, p. 235.

This act applied to the counties of Santa Clara, San Diego, San Bernardino, San Luis Obispo, Contra Costa, San Mateo, Alameda, Santa Barbara, and Marin.

ACT 183.

For the better protection of stock-raisers in Fresno, Tulare, Monterey, and Mariposa counties. [Stats. 1865-66, p. 322.]

See 1892, p. 235.

This act required hides of cattle to be kept fifteen days, and made provisions as to branding of calves, and required records to be kept of slaughtered animals. It was continued in force by Political Code, § 19, and Penal Code, § 23.

ACT 184.

Regulating the disposition of the hides of cattle killed or slaughtered in the state. [Stats. 1893, p. 235.]

This act provided for the retention and inspection of the hides.

ACT 185.

To encourage the destruction of wild animals in the different counties of the state, and authorizing the board of supervisors of each of said counties to fix and determine the bounty for the destruction of the same. [Approved March 15, 1883. Stats. 1883, p. 368.]

Superseded by subd. 26, § 25, County Government Act, 1897, p. 465.

Citations. Cal. 65/563, 564.

ACT 186.

Destruction of squirrels and gophers. [Stats. 1869-70, p. 316.]

Amended 1871-72, p. 474; 1871-72, p. 532. It was repealed as to certain counties by Stats. 1871-72, p. 18; Stats. 1871-72, p. 834; and Stats. 1875-76, p. 513.

It applied to Alameda, Contra Costa, Fresno, Stanislaus, Merced, San Joaquin, and Yolo counties. It was repealed as to Stanislaus County by act of 1875-76, p. 513; as to Alameda County by act of 1871-72, p. 18; amended as to Contra Costa County by the act of 1871-72, p. 834.

Superseded by subd. 26, § 25, County Government Act, 1897, p. 465.

ACT 187.

Squirrels, destruction of. [Stats. 1875-76, p. 143.]

Amended 1875-76, p. 637, and made applicable to San Luis Obispo. Superseded by subd. 26, § 25, County Government Act, 1897, p. 465.

This act related to Stanislaus, Santa Cruz, San Joaquin, Merced, Fresno, San Benito, Tulare, San Mateo, Santa Clara, Monterey, and Kern counties.

ACT 188.

To encourage destruction of squirrels, gophers or other wild animals, in counties of Los Angeles, Napa, Merced, San Bernardino, and Santa Cruz. [Stats. 1871-72, p. 92.]

Repealed as to Los Angeles, 1873-74, p. 84; as to Santa Cruz, 1878-74, p. 129; as to San Bernardino, 1873-74, p. 691; as to Napa, 1877-78, p. 569; in toto, 1880, p. 108.

ACT 189.

Destruction of certain wild animals. [Stats. 1875-76, p. 533.]

Repealed 1877-78, p. 2.

This act provided for bounties for the destruction of certain wild animals in the counties of Mendocino, Del Norte, Humboldt, Placer, Lake, San Luis Obispo, and Colusa.

ACT 190.

To prevent the stealing of dogs. [Stats. 1860, p. 70.]
Superseded by Penal Code.

ACT 191.

To prevent combinations to obstruct the sale of livestock. [Stats. 1893, p. 30.]

This act is set forth at length in the Appendix to the Civil Code, p. 753.

ACT 192.

To prevent tampering with animals and to prevent the giving or administering of poison or drugs to horses, cattle, dogs, animals and other livestock except for medicinal purposes, and making the same a misdemeanor. [Stats. 1901, p. 553.]

This act appears in full in Penal Code, Appendix, p. 751.

TITLE 23.**ANTIOCH.****ACT 197.**

Defining boundaries of. [Stats. 1871-72, p. 725.]

Superseded by incorporating the town in 1890 under the Municipal Corporation Act of 1883.

TITLE 24.**ANTONIO CREEK.****ACT 202.**

To declare Antonio Creek, in Contra Costa County, navigable. [Stats. 1852, p. 182.]

Incorporated in Political Code, § 2849.

Citations. Cal. 118/181.

TITLE 25.**ANTWERP MESSENGER.****ACT 207.**

For the protection of the Antwerp messenger or homing pigeon. [Stats. 1897, p. 37.]

Codified by § 598a, Penal Code: See Penal Code, § 598a, note.

APIARIES.

See post, "Bee Culture."

TITLE 26.**APPRENTICES.****ACT 212.**

Apprentices and masters, act relative to. [Stats. 1875-76, p. 842.]

Amended 1880, p. 28.

Codified by §§ 264 et seq., Civil Code: See Civil Code, § 264, note.

ACT 213.

To provide for binding minors as apprentices, clerks, or servants. [Stats. 1858, p. 134.]

Superseded by Civil Code, §§ 264 et seq.

ACT 214.

To authorize the managers of the San Francisco Orphan Asylum or any other orphan asylum to bind as apprentices, clerks, and servants, orphan or half-orphan children under their care and tuition. [Stats. 1860, p. 37.]

Supp. 1869-70, p. 334.

TITLE 27.**ARBITRATION.****ACT 219.**

An act to provide for a state board of arbitration for the settlement of differences between employers and employees, to define the duties of said board, and to appropriate the sum of twenty-five hundred dollars therefor.

[Approved March 10, 1891. Stats. 1891, p. 49.]

§1. On or before the first day of May of each year, the governor of the state shall appoint three competent persons to serve as a state board of arbitration and conciliation. One shall represent the employers of labor, one shall represent labor employees, and the third member shall represent neither, and shall be chairman of the board. They shall hold office for one year and until their successors are appointed and qualified. If a vacancy occurs, as soon as possible thereafter the governor shall appoint some one to serve the unexpired term; provided, however, that when the parties to any controversy or difference, as provided in section 2 of this act, do not desire to submit their controversy to the state board, they may by agreement each choose one person, and the two shall choose a third, who shall be chairman and umpire, and the three shall constitute a board of arbitration and conciliation for the special controversy submitted to it, and shall for that purpose have the same powers as the state board. The members of the said board or boards, before entering upon the duties of their office, shall be sworn to faithfully discharge the duties thereof. They shall adopt such rules of procedure as they may deem best to carry out the provisions of this act.

§2. Whenever any controversy or difference exists between an employer, whether an individual, copartnership, or corporation, which, if not arbitrated, would involve a strike or lockout, and his employees, the board shall, upon application, as hereinafter provided, and as soon as practicable thereafter, visit, if necessary, the locality of the dispute and make careful inquiry into the cause thereof, hear all persons interested therein who may come before them, advise the respective parties what, if anything, ought to be done or submitted to by either, or both, to

adjust said dispute and make a written decision thereof. This decision shall at once be made public, and shall be recorded upon proper books of record to be kept by the board.

§3. Said application shall be signed by said employer, or by a majority of his employees in the department of the business in which the controversy or difference exists, or their duly authorized agent, or by both parties, and shall contain a concise statement of the grievances complained of, and a promise to continue on in business or at work, without any lockout or strike, until the decision of said board, which must, if possible, be made within three weeks of the date of filing the application. Immediately upon receipt of said application, the chairman of said board shall cause public notice to be given of the time and place for hearing. Should the petitioners fail to keep the promise made therein, the board shall proceed no further thereupon without the written consent of the adverse party. And the party violating the contract shall pay the extra cost of the board entailed thereby. The board may then reopen the case and proceed to the final arbitration thereof as provided in section 2 hereof.

§4. The decision rendered by the board shall be binding upon the parties who join in the application for six months, or until either party has given the other a written notice of his intention not to be further bound by the conditions thereof after the expiration of sixty days or any time agreed upon by the parties, which agreement shall be entered as a part of the decision. Said notice may be given to the employees by posting a notice thereof in three conspicuous places in the shop or factory where they work.

§5. Both employers and employees shall have the right at any time to submit to the board complaints or grievances and ask for an investigation thereof. The board shall decide whether the complaint is entitled to a public investigation, and if they decide in the affirmative, they shall proceed to hear testimony, after giving notice to all parties concerned, and publish the result of their investigations as soon as possible thereafter.

§6. The arbitrators hereby created shall be paid five dollars per day for each day of actual service, and also their necessary traveling and other expenses incident to the duties of their office shall be paid out of the state treasury; but the expenses and salaries hereby authorized shall not exceed the sum of twenty-five hundred dollars for the two years.

§7. The sum of twenty-five hundred dollars is hereby appropriated out of any money in the state treasury not otherwise appropriated, for the expenses of the board for the first two years after its organization.

§8. This act shall take effect and be in force from and after its passage.

TITLE 28.
ARCHITECTURE.

ACT 224.

An act to regulate the practice of architecture.

[Approved March 23, 1901. Stats. 1901, p. 641. Amended 1903, p. 522.]

Constitutional: *Ex parte McMannus*, 38 Cal. Dec. 652.

§1. Within sixty days from and after the passage of this act, the governor of the state shall appoint ten persons, which persons so appointed shall constitute a board, which board shall be known and designated as the state board of architecture. Five members of said board of architecture, shall be residents of the northern district of California, and shall constitute the northern district for the examination of applicants for certificates to practice architecture in this state. And five members of said board shall be appointed from the southern district of California, and shall constitute the southern district board for the examination of applicants for certificates to practice architecture in this state. The northern district shall be all that portion of the state north of the northerly line of the county of San Luis Obispo and the county of Kern and the county of San Bernardino. And the southern district shall be all that portion of the state south of the northerly line of the county of San Luis Obispo and of the county of Kern and of the county of San Bernardino. Said state board of architecture shall be appointed by the governor as follows: Five members shall be appointed from the members in good standing of the San Francisco Chapter of the American Institute of Architects, or some similar institution or association of architects, two of whom shall be designated to hold office for two years. Five members shall be appointed from the members of the Southern California Chapter of the American Institute of Architects, or some similar institution or association of architects, two of whom shall be designated to hold office for two years. Each person so appointed shall hold office for four years, unless so designated to hold office for two years. And thereafter, upon the expiration of the term of office of the persons so appointed, the governor of the state shall appoint a successor or successors to such outgoing person or persons whose term of office shall have expired, to hold office for four years; provided, that the membership of the state board of architecture shall be composed as herein set forth. Each member shall hold over after the expiration of his term of office until his successor shall have been duly appointed and qualified. Any vacancy occurring in the membership of the board shall be filled by the governor of the state for the unexpired term in like manner. The members of the board shall serve without compensation from the state. The expenses of the board shall be paid out of the fees collected from applicants for certificates.

§2. The members of the state board of architecture shall, before entering upon the discharge of the duties of their office, take and file with the secretary of state the constitutional oath of office. The said state board of architecture shall, within thirty days from and after their

appointment, meet and elect from their number a president and a vice-president, one of whom shall be a resident of the northern district, and one a resident of the southern district, and two secretaries, one from each district. The secretaries shall also act as treasurers. The person receiving the highest number of votes shall be secretary, and the person receiving the next highest number of votes, assistant secretary. Said persons shall hold office for two years, or until their successors shall have been duly elected and qualified.

§3. The board may adopt rules and regulations for the government of its proceedings, not inconsistent with this act. The state board shall adopt a seal for its own use, and one for each of the district boards. The seal used by the northern district board shall have the words "Northern District" inscribed thereon, and the one for the southern district shall have the words "Southern District" inscribed thereon, and the secretary and assistant secretary shall have charge, care and custody thereof. The secretary shall keep a correct record of all the proceedings of the board, which shall be open to public examination at all times. Six members shall constitute a quorum for the transaction of business of the state board of architecture, and three members shall constitute a quorum of the district boards for the transaction of business. Special meetings of the state board of architecture shall be called by the secretary upon the written request of four of its members, and by giving twenty days' written notice of such meeting, and the time and place at which such meeting is to be held, to each member of the board. The district board shall call special meetings upon the written request of two of its members made to the secretary, and upon five days' written notice to each member of such district board. Within thirty days from and after the date of their appointment, the state board shall meet to organize, elect officers as in this act provided for, and formulate and adopt a code of rules and regulations for its government in the examination of applicants for certificates to practice architecture in this state; and such other rules and regulations as may be necessary and proper, not inconsistent with this act. The board may from time to time repeal or modify its rules and regulations, not inconsistent with this act. The state board shall meet annually, on the second Tuesday in April, for the purpose of transacting such business as may lawfully come before it, not inconsistent with this act. The district boards shall hold their regular meetings for the examination of applicants for certificates to practice architecture, on the last Tuesday of January, April, July and October of each year. The board of the northern district shall meet in San Francisco; and the board of the southern district shall meet in Los Angeles, and at such other times and places as they may elect, to examine applicants for certificates. Any person shall be entitled to an examination for a certificate to practice architecture, upon payment, to the district board when he makes application, of a fee of fifteen dollars, which fee shall be retained by the board; should the applicant pass a satisfactory examination by said district board, the secretary shall, upon the payment to him of a further fee of five dollars, issue to the applicant a certificate, signed

by the president and secretary, sealed with the seal of the district board, and directed to the secretary of state, setting forth the fact that the person therein named has passed a satisfactory examination, and that such person is entitled to a certificate to practice architecture in this state, in accordance with the provisions of this act; and upon the payment to the secretary of state of a fee of five dollars, the secretary shall at once issue to the person therein named a certificate to practice architecture in this state in accordance with the provisions of this act, which certificate shall contain the full name of the applicant, his birth-place and age, together with the name of the district board issuing the certificate, and date of issuance thereof. All papers received by the secretary of state on application for certificate shall be kept on file in his office, and a proper index and record thereof shall be kept by him.

§ 4. Any architect in good standing, who shall show to the satisfaction of the district board of the district in which such architect may reside, that he was engaged in the practice of the profession of architecture on the date of the passage of this act, shall be granted a certificate without passing an examination, on the payment to the district board of a fee of five dollars; provided, such application shall be made within six months from and after the passage of this act. Said certificate shall set forth the fact that the person to whom the same was issued was practicing architecture in this state at the time of the passage of this act, and that the person therein named is entitled to a certificate to practice architecture without having to pass an examination by the district board; and the secretary of state shall, upon the payment to him of a fee of five dollars, issue to the person named therein a certificate to practice architecture in this state, in accordance with the provisions of this act. Each certificated architect shall have his certificate recorded in the office of the county recorder, in each and every county in this state, in which the holder thereof shall practice, and he shall pay to the recorder the same fee as is charged for the recording of deeds. A failure to have his certificate so recorded shall be deemed sufficient cause for revocation of such certificate.

§ 5. After the expiration of six months from the passage of this act, it shall be unlawful, and it shall be a misdemeanor, punishable by fine of not less than fifty dollars nor more than five hundred dollars, for any person to practice architecture without a certificate in this state, or to advertise, or put out any sign or card, or other device which might indicate to the public that he was an architect; provided, that nothing in this act shall prevent any person from making plans for his own buildings, nor furnishing plans or other data for buildings for other persons, provided the person so furnishing such plans or data shall fully inform the person for whom such plans or data are furnished, that he, the person furnishing such plans, is not a certified architect; provided, that nothing in this act shall prevent the employment of an architect residing out of the state of California to prepare plans and specifications for buildings or other structures within the state, conditioned he shall

present satisfactory evidence to the board of the district in which the structure is to be erected that he is a competent architect, when such board shall issue to such architect a temporary certificate for such employment, upon the payment of a fee of five dollars. Architects' certificates issued in accordance with the provisions of this act shall remain in full force until revoked for cause, as hereinafter provided for in this act. A certificate may be revoked for dishonest practices, or for gross incompetency in the practice of the profession, which questions shall be determined by the district board of the district in which the person whose certificate is called in question shall reside, or shall be doing business; and upon a full investigation of the charges by the district board, an opportunity having been given the accused to be heard in his own defense or by counsel; and upon the verdict of at least four members of the district board, the board may issue its certificate to the secretary of state revoking the certificate of the person accused; and the secretary of state shall thereupon cancel such certificate. And on the cancellation of such certificate, it shall be the duty of the secretary of the district board to give notice of such cancellation to the county recorder of each county in this state, whereupon the recorder shall mark the certificate recorded in his office "Canceled."

After the expiration of six months the person whose certificate was revoked may have a new certificate issued to him by the secretary of state upon the certificate of the district board by which the certificate was revoked.

Every certificated architect shall have a seal, the impression of which must contain the name of the architect, his place of business, and the words "Certificated architect," with which he may stamp all plans prepared by him.

§ 6. This act shall take effect from and after its passage.

§ 7. Each regularly certificated architect shall pay an annual license fee of five dollars, said fee to be paid to the secretary of the board of the district of which he shall be a resident, and shall be payable in advance on January 1, and shall become delinquent the first day of April, of each year, after which date it shall be delinquent, and the certificate of such architects who shall fail to pay their license fees by April 1 of each year, shall be subject to cancellation by said district board, and notice of such cancellation shall be sent to each county recorder of the state of California and to the secretary of state, as provided in section 5 of the act to regulate the practice of architecture, approved March 23, 1901, for cancellation of certificates. And the secretary of the said district shall issue a receipt signed by the president and secretary of the district, and under the seal of the district board, to each architect paying said license fee, showing that said certificated architect has paid his annual license fee, which license receipt shall be displayed in a prominent place in the office of said architect. The fees so collected shall be used to meet the expenses of the state board of architecture.

[New section approved March 26, 1903. Stats. 1903, p. 522. In effect immediately.]

Citations. Cal. 151/382. App. 2/222, 223.

TITLE 29.

ARMS.

ACT 229.

To provide for the issuing arms and accoutrements to colleges and academies. [Stats. 1862, p. 483.]

ACT 230.

Military academies, act to furnish arms to. [Stats. 1871-72, p. 121.]

See this act post, Act 2200.

TITLE 30.

ARREST.

ACT 235.

For the relief of persons imprisoned on civil process. [Stats. 1850, p. 407. Amended 1863, p. 93.]

Superseded by Code of Civil Procedure, §§ 1143-1154.

TITLE 31.

ARROYO DEL MEDO.

ACT 240.

To declare the Arroyo del Medo in Santa Clara County navigable. [Stats. 1852, p. 223.]

Incorporated in Political Code, § 2349.

TITLE 32.

ARTESIAN WELLS.

ACT 245.

An act to prevent the waste and flow of water from artesian wells and prescribing penalties therefor and defining waste and artesian wells. [Approved March 6, 1907. Stats. 1907, p. 122. Amended 1909, p. 749.]

This act appears in full in Penal Code, Appendix, p. 752.

Former act: See Stats. 1877-78, p. 195; amended 1901, p. 284.

Citations. Cal. App. 6/285.

TITLE 33.

ASEXUALIZATION.

ACT 247.

An act to permit asexualization of inmates of the state hospitals and the California Home for the Care and Training of Feeble-minded Children, and of convicts in the state prisons.

[Approved April 26, 1909. Stats. 1909, p. 1093.]

§1. Whenever in the opinion of the medical superintendent of any state hospital, or the superintendent of the California Home for the Care and Training of Feeble-minded Children, or of the resident physician in any state prison, it would be beneficial and conducive to the benefit of the physical, mental or moral condition of any inmate of said state hospital, home, or state prison, to be asexualized, then such superintendent or resident physician shall call in consultation the general superintendent of state hospitals and the secretary of the state board of health, and they shall jointly examine into all the particulars of the case with the said superintendent or resident physician, and if in their opinion, or in the opinion of any two of them, asexualization will be beneficial to such inmate, patient or convict, they may perform the same; provided, that in the case of an inmate or convict confined in any of the state prisons of this state, such operation shall not be performed unless the said inmate or convict has been committed to a state prison in this or in some other state or country at least two times for some sexual offense, or at least three times for any other crime, and shall have given evidence while an inmate in a state prison in this state that he is a moral and sexual pervert; and provided further, that in the case of convicts sentenced to state prison for life who exhibit continued evidence of moral and sexual depravity, the right to asexualize them, as provided in this act, shall apply, whether they have been inmates of a state prison either in this or any other state or country more than one time.

TITLE 34.

ASSAULT.

ACT 250.

To punish assaults with caustic or corrosive liquids and substances.
[Stats. 1867-68, p. 194.]

Superseded by Penal Code, § 244.

TITLE 35.

ASSESSORS.

ACT 255.

County treasuries, protection of. [Stats. 1873-74, p. 393.]

Probably repealed by County Government Act, 1897, p. 452.

This act required the assessors of Siskiyou, Calaveras, Amador, and Alpine counties appointing deputies, in pursuance of power given by the board of equalization, to pay such deputies.

TITLE 36.

ASSIGNMENTS OF CONTRACTS.

ACT 260.

Relative to bonds, duebills and other instruments in writing and making them assignable. [Stats. 1850, p. 332.]

This act has not been in terms repealed, and in the absence of positive legislation, it is difficult to tell what, if any, part of it is in force.

TITLE 37.**ATTORNEY GENERAL.****ACT 264.**

An act making an appropriation for the purchase of law books for the attorney general. [Approved June 14, 1906. Stats. 1906, p. 32.]

This act appropriated \$5,000 for the purpose indicated.

ACT 265.

The better to enable the collection of judgments in favor of the state. [Stats. 1858, p. 159.]

This act authorized the attorney general to bid in property under execution in favor of and for the benefit of the state. It was superseded by Political Code, § 470, subd. 8.

ACT 266.

To provide the office of the attorney general with law books required by him for the conduct of his business and requiring the state librarian to provide and furnish the same. [Stats. 1895, p. 65.]

TITLE 38.**ATTORNEYS AT LAW.****ACT 271.**

Concerning attorneys and counselors at law. [Stats. 1851, p. 48.]

Amended 1859, p. 60; 1861, p. 40; 1869-70, p. 578. Superseded by Code of Civil Procedure, §§ 275 et seq.

This act related to the admission and disbarment of attorneys.

TITLE 39.**AUBURN.****ACT 276.**

Authorizing the trustees of Auburn to remove a cemetery and to donate the land occupied thereby to the public for a park. [Stats. 1895, p. 109.]

TITLE 40.**BANKRUPTCY AND INSOLVENCY.****ACT 281.**

Insolvent debtors, relief of. [Stats. 1875-76, p. 581.]

Supplementing act of May 4, 1852. Repealed by Insolvent Act of 1880, p. 82.

Citations. Cal. 55/808, 804; 57/362, 363; 59/185; 62/80; 64/492; 72/445, 447.

ACT 282.

For the relief of insolvent debtors. [Stats. 1880, p. 82.]

Amended 1891, p. 511; 1898, p. 45. Repealed 1895, p. 181.

Citations. Cal. 65/868; 87/458; 106/579; 120/404; 141/76, 77.

ACT 283.

For the relief of insolvent debtors, for the protection of creditors and for the punishment of fraudulent debtors. [Stats. 1895, p. 131.]

Amended 1897, p. 85. Superseded by the federal law.

Citations. Cal. 111/487, 440; 115/216; 116/265, 868; 117/854, 855, 475, 477; 118/435; 119/563, 587; 122/218, 880, 881, 635; 123/40, 245, 268; 125/180, 181, 416, 417; 126/638, 689; 127/104, 805, 556; 128/148, 149, 659, 660; 129/495; 130/458, 572, 578; 131/592, 598, 594; 133/497, 498; 134/378, 374, 375; 135/160, 244; 136/280; 138/789, 740, 742; 139/259, 260, 856, 857, 858, 859, 860, 861; 141/99, 100.

TITLE 41.**BANKS AND BANKING.****ACT 288.**

For the formation of savings corporations. [Stats. 1862, p. 199.]

Amended 1868-64, pp. 158, 581; 1865-66, p. 626; 1869-70, p. 180; 1871-72, p. 182. Supplemented 1867-68, p. 459.

"Repealed by § 288, Civ. Code; and even as to pre-existing corporations modified by the codes and the constitution. (McGowan v. McDonald, 111 Cal. 57.)"

—Code Commissioner's Note. See, also, Laidlaw v. Pacific Bank, 70 Pac. 277; Murphy v. Pacific Bank, 119 Cal. 834.

Citations. Cal. 72/200; 111/62; 119/888; 137/894, 895; 144/222, 226, 227.

ACT 289.

Supplemental to the act for formation of savings corporations. [Stats. 1867-68, p. 459.]

Repealed by § 288, Civil Code.

ACT 290.

To provide for the formation of corporations for the accumulation of funds and savings and the direct promotion of manufacturing and mechanic arts, agriculture and mining. [Stats. 1869-70, p. 523.]

Repealed by § 288, Civil Code.

ACT 291.

Concerning corporations engaged in banking. [Stats. 1875-76, p. 729.]

Repealed 1898, p. 112; 1895, p. 77.

This act provided for the publication of sworn statements by banks.

Citations. Cal. 72/56; 97/82; 99/127; 101/808; 104/478; 111/187.

ACT 292.

To compel savings banks to publish a sworn statement of unclaimed deposits. [Stats. 1893, p. 183. Repealed 1905, p. 582.]

Codified by amendment of Civil Code, adopted 1905: See Civil Code, § 588b, note. Repealed 1905, p. 582.

ACT 293.

To compel all depositaries of money and commercial banks to publish a sworn statement of all unclaimed deposits. [Stats. 1897, p. 27.]

Codified by amendment of Civil Code, adopted 1905: See Civil Code, § 588b, note. Repealed 1905, p. 582.

TITLE 42.**BARBERS.****ACT 301.**

To regulate the practice of barbering, the registering and licensing of persons to carry on such practice, and to insure the better education and promote competency and skill among such practitioners in the state of California. [Approved February 20, 1901. Stats. 1901, p. 15.]

Repealed 1903, p. 166.

TITLE 43.**BEE CULTURE.****ACT 306.**

To authorize the boards of supervisors of the several counties of this state to appoint inspectors of apiaries and provide for their compensation, and defining their duties, and for the further protection of bee culture. [Approved March 13, 1883; 1883, p. 285.]

Repealed 1901, p. 13.

The nature of the act appears from its title.

ACT 307.

To promote the apicultural interests of the state of California by providing county inspectors of apiaries, and defining their duties, and providing for their compensation, and repealing the act entitled "An act to authorize the board of supervisors of the several counties of this state to appoint inspectors of apiaries, and provide for their compensation, and defining their duties, and for the further protection of bee culture," approved March 13, 1883. [Approved February 20, 1901. Stats. 1901, p. 13.]

Amended 1903, p. 7.

TITLE 44.**BENEFIT SOCIETIES.****ACT 312.**

Mutual benefit and relief associations. [Stats. 1873-74, p. 74b.]

Amended 1880, p. 25; 1901, p. 6.

Odified by §§ 452a, 453, Civil Code.

Citations. Cal. 128/263; 142/491, 492, 493, 495, 496.

TITLE 45.**BENEVOLENT CORPORATIONS.****ACT 317.**

To further extend the act concerning corporations. [Stats. 1857, p. 75.]

This act authorized the formation of corporations for benevolent purposes.

ACT 318.

Further extending act concerning corporations. [Stats. 1858, p. 57.]

Amended and supplemented 1858, p. 264.

This act allowed the formation of corporations for charitable and benevolent purposes.

ACT 319.

Supplementary to act of 1850 concerning corporations. [Stats. 1858, p. 264.]

This act authorized the formation of corporations for benevolent and literary purposes.

TITLE 46.**BENICIA.****ACT 324.**

To settle land titles in. [Stats. 1865-66, p. 107.]

ACT 325.

To cede certain property to. [Stats. 1855, p. 239.]

This act ceded to Benicia the entire waterfront of that city: See act of 1859, p. 314.

Citations. Cal. 118/345.

ACT 326.

Election of assessor, city marshal, and treasurer of. [Stats. 1877-78, p. 400.]

Superseded by incorporating, in 1886, under Municipal Corporation Act of 1883.

ACT 327.

To provide for the government of. [Stats. 1859, p. 314.]

Supplemented 1860, p. 118; 1861, p. 17. Amended 1862, p. 231; 1867-68, pp. 3, 206; 1869-70, p. 854; 1873-74, p. 777. Superseded by incorporating, in 1886, under the Municipal Corporation Act of 1883.

TITLE 47.**BERKELEY.****ACT 330.**

To incorporate the town of. [Stats. 1877-78, p. 888.]

Superseded by the charter of Berkeley, 1895, p. 410: Miner v. Justices' Court, 121 Cal. 264.

ACT 331.

Charter of Berkeley. [Stats. 1895, p. 410.]

Amended 1905, p. 829. See Act 332.

Citations. Cal. 5/578, 579, 580.

ACT 332.

Charter of Berkeley. [Stats. 1909, p. 1208.]

ACT 333.

To create a justice's court for the town of. [Stats. 1895, p. 205.]

Unconstitutional: Miner v. Justices' Court, 121 Cal. 264.

TITLE 48.**BIG TREES.****ACT 338.**

Big trees, protection of, in Fresno, Tulare and Kern counties. [Stats. 1873-74, p. 347.]

ACT 339.

To provide for the management of the Mariposa big tree grove. [Stats. 1880, p. 44.]

Amended 1885, p. 212. Repealed 1907, p. 268.

TITLE 49.**BILLS AND NOTES.****ACT 344.**

Relating to bills of exchange and promissory notes. [Stats. 1850, p. 247.]

Superseded by provisions of Civil Code relating to negotiable instruments.
Citations. Cal. 90/107; 103/322, 328.

TITLE 50.**BIRD AND ARBOR DAY.****ACT 348.**

An act to establish a bird and arbor day. [Approved March 3, 1909. Stats. 1909, p. 134.]

§ 1. March 7th of each year, being the anniversary of the birth-day of Luther Burbank, is hereby set apart and designated bird and arbor day. All public schools and educational institutions are directed to observe bird and arbor day, not as a holiday, but by including in the school work of the day suitable exercises having for their object instruction as to the economic value of birds and trees, and the promotion of a spirit of protection toward them.

§ 2. This act shall take effect from and after its passage.

TITLE 51.**BLUE BOOK.****ACT 349.**

To provide for the compilation, printing, binding, publishing and distribution of a legislative manual and state blue book, or roster, and repealing conflicting acts. [Approved February 13, 1903. Stats. 1903, p. 19.]

Further acts can be found in Statutes 1891, p. 454, and 1893, p. 218.

TITLE 52.**B'NAI B'RITH.****ACT 354.**

Concerning order of B'nai B'rith. [Stats. 1867-68, p. 310.]

This act conferred corporate power on this society.

TITLE 53.**BOARD OF EXAMINERS.****ACT 359.**

Purchase of supplies for state officers and members of the legislature. [Stats. 1875-76, p. 814.]

This act constituted the state board of examiners a furnishing board with certain powers and duties.

ACT 360.

To authorize the state board of examiners to invest the moneys derived from the state school lands in the bonds of the several counties of this state. [Stats. 1871-72, p. 54. Repealed 1883, p. 25.]

ACT 361.

Authorizing state board of examiners to sell old furniture and all material belonging to the state and not required for public use. [Stats. 1891, p. 452.]

ACT 362.

Prescribing certain duties to be performed by the state controller, state treasurer, and state board of examiners. [Stats. 1871-72, p. 118.]

This act provided for reports as to warrants on the treasury, the adjustment of balances, the counting of funds, and the cancellation of warrants not called for. It appears in full in Political Code, Appendix, title "Officers."

TITLE 54.**BOARDS OF FREEHOLDERS.****ACT 367.**

In relation to municipal elections where the same are held separate from general state elections, and elections held under the authority of section eight of article eleven of the constitution, to elect boards of freeholders, or to vote upon proposed charters or upon amendments to existing charters, and to repeal an act entitled an act in relation to elections held under the authority of section eight of article eleven of the constitution, approved March 31, 1897. [Approved March 4, 1899. Stats. 1899, p. 63. Repealed 1907, p. 661.]

Citations. Cal. 138/844.

BOARDS OF TRADE.

See title "Chambers of Commerce." See Act 1014.

TITLE 55.**BONDS.****ACT 368.**

An act making the cost of certain bonds of receivers, assignees, trustees, guardians, administrators and executors chargeable to a certain extent against the trust estate.

[Approved March 20, 1905. Stats. 1905, p. 477.]

§1. Any receiver, assignee, trustee, guardian, administrator or executor required by law or by the order of court to give a bond as such, shall be allowed as part of the lawful expenses of executing his trust, the sum paid for such bond, not exceeding, however, one-half ($\frac{1}{2}$) of one (1) per cent of the amount of such bond, for each year that the same shall remain in force.

ACT 369.

To provide for funding the indebtedness of counties in certain cases.
[Stats. 1884, p. 8.]

Superseded by County Government Act, 1897, subd. 18, § 25, p. 460.

ACT 370.

To provide for the funding indebtedness of the several counties of the state and the issuing of bonds therefor. [Stats. 1889, p. 87.]

Superseded by § 25, County Government Act, 1897, p. 457.

ACT 371.

Authorizing the several counties of the state to create a bonded indebtedness. [Stats. 1889, p. 348.]

Superseded by § 25, County Government Act, 1897, p. 460.

ACT 372.

Providing for submitting to the qualified electors of a county or city and county a proposed issue of bonds. [Stats. 1883, p. 375.]

Superseded by § 25, County Government Act of 1897, and as to San Francisco by its charter.

ACT 373.

Authorizing the board of supervisors of any county, or any subdivision of a county, having a bonded debt, to refund such debt at a less rate of interest. [Approved March 18, 1885, p. 211.]

Superseded by subd. 18, § 25, County Government Act, 1897, p. 460.

ACT 374.

To provide for the payment of interest on the outstanding bonds of the state held in trust for the university fund and the state school fund. [Stats. 1893, p. 75.]

Amended 1899, p. 98.

ACT 375.

To provide for the redemption and payment of certain funded debt bonds of the state. [Stats. 1893, p. 49.]

ACT 376.

To provide for the issuance and sale of state bonds to create a fund for the construction by the board of state harbor commissioners of a seawall and appurtenances in the city and county of San Francisco;

to create a sinking fund for the payment of said bonds; and providing for the submission of this act to a vote of the people. [Approved March 20, 1903. Stats. 1903, p. 247.]

This act provided for the submission to the people of the question of voting upon the issuance of bonds to the amount of \$2,000,000 for the construction of a seawall in San Francisco: See Acts 1435 and 1436.

See *Spears v. Reeves*, 148 Cal. 501. See, also, Stats. 1907, p. 722. Citations. Cal. 148/502.

ACT 377.

To facilitate the giving of bonds required by law. [Stats. 1885, p. 114.]

This act appears in full in Civil Code, Appendix, p. 795. It authorized surety corporations to act as sole surety.

Citations. Cal. 97/855.

ACT 378.

In relation to suits brought on official bonds and obligations in favor of the state. [Stats. 1857, p. 173.]

Superseded by Political Code, §§ 983, 984.

ACT 379.

To provide for the payment by the state or counties, or cities, or cities and counties, of the premium or charge on official bonds when given by surety companies. [Stats. 1903, p. 476.]

This act appears in full in Political Code, Appendix, tit. "Bonds."

ACT 380.

To provide for the redemption and payment of certain funded debt bonds of this state, together with interest thereon, making an appropriation therefor, and authorizing the state controller and state treasurer to transfer the sum of one hundred and twenty thousand dollars from the general fund to the interest and sinking fund to carry out the provisions of this act. [Approved February 27, 1893. Stats. 1893, p. 49.]

ACT 381.

To provide for the payment of funded indebtedness of the state of California, and to contract a funded debt for that purpose. [Approved March 31, 1891. Stats. 1891, p. 210.]

The act created a board of commissioners to issue bonds for the purpose indicated and provided for the sale and redemption of the bonds.

ACT 382.

An act authorizing the common council, board of trustees, or other governing body of any incorporated city or town other than cities of the first class to refund its indebtedness, to issue bonds therefor, and to provide for the payment of the same.

[Approved March 9, 1897. Stats. 1897, p. 75. Amended 1901, p. 274.]

Unconstitutional in part: *Los Angeles v. Hance*, 122 Cal. 77.

§ 1. The common council, board of trustees, or other governing body of any incorporated city or town other than cities of the first class, in this state, having an outstanding indebtedness, evidenced by bonds or warrants thereof, or by judgment or judgments recovered against it upon bonds or warrants originally issued by such town or city, is empowered, by a two-thirds vote of its number, to fund or refund the said indebtedness and issue bonds of such city or town therefor in sums of not less than one hundred dollars nor more than one thousand dollars each, and having not more than forty years to run, and bearing a rate of interest not exceeding six per cent per annum, payable semi-annually; provided, that no indebtedness shall be refunded at a higher rate of interest than that borne by the original debt. Such bonds shall be of the character known as "serials," not less than one-fortieth of the principal being payable each year, together with the interest due on all sums unpaid. Principal and interest on said bonds shall be payable in gold coin or other lawful money of the United States, as may be expressed in said bonds, at the office of the treasurer of said city or town. Said bonds shall be sold in the manner provided by such city council or other governing body, to the highest bidder therefor, for not less than their face value, in the same character of money as that in which they are payable. The proceeds of such sale shall be placed in the treasury of such city or town to the credit of the "funding fund," and shall be applied only to refunding the indebtedness for which said bonds were issued. Said trustees, or other governing body, shall at the time for fixing the general tax levy for each year, and in the same manner as such tax levy is made, levy and collect sufficient money to pay such part of the principal of said bonds issued under this act as one year bears to the number of years for which the bonds are to run, and also the annual interest upon the sums unpaid. [Amended 1901, p. 274.]

§ 2. Whenever sufficient money is in the funding fund, in the hands of the treasurer, to redeem one or more of the outstanding bonds proposed to be refunded, he shall publish once a week for two weeks in some newspaper of general circulation published in such city or town, if there be any, a notice to the effect that he is prepared to pay such bond or bonds (giving the number thereof), and if the same are not presented for redemption within thirty days after the first publication of such notice, the interest on such bonds will cease. He shall, at the same time, deposit in the postoffice a copy of such notice, inclosed in a sealed envelope, with the postage paid thereon, addressed to the owner or owners of such bond or bonds, at the postoffice address of such owner or owners, as shown by the record thereof kept in the treasurer's office. If such bond or bonds are not presented within the time specified in such notice, the interest thereon shall then cease, and the amount due be set aside for the payment of the same, whenever presented. All redemption of bonds shall be made according to the priority in the order of their issuance, beginning at the first number. Whenever such outstanding bonds are surrendered and paid, the treasurer shall proceed to cancel the same by indorsing on the face thereof the amount for which they are

received, the word "Canceled" and the date of cancellation. He shall also keep a record of such bonds so redeemed, and shall make a report of the same to the common council, or other governing body of such city or town, at least once a month, accompanying the same therewith by the bonds which have been taken up and canceled.

§3. All moneys which shall remain in said funding fund after all outstanding bonds or indebtedness as were proposed to be refunded have been taken up and canceled, shall be paid into the general fund of such city or town, and become a part thereof. [Amended 1901, p. 275.]

§4. Chapter eighty-two of the statutes of eighteen hundred and eighty-three, chapter forty-eight of the statutes of eighteen hundred and ninety-three, and chapter one hundred and seventy-six of the statutes of eighteen hundred and ninety-five, all being laws of the state of California in conflict herewith, are hereby repealed.

§5. This act shall take effect and be in force immediately after its passage.

This act repealed the act of March 15, 1883, Stats. 1883, p. 370, and the amendatory acts of March 1, 1893, Stats. 1893, p. 61, and of March 27, 1895, Stats. 1895, p. 208, providing for the refunding of indebtedness and the issuing of bonds.

ACT 383.

An act providing for submitting to a vote of the qualified electors of a county, or city and county, a proposal to issue bonds. [Approved March 15, 1883. Stats. 1883, p. 375.]

Compare subd. 18, § 25, County Government Act, Stats. 1897, p. 460.

ACT 384.

An act to authorize the several counties of this state to create a bonded indebtedness for certain purposes.

[Approved March 19, 1889. Stats. 1889, p. 348.]

Issuance of bonds to pay county indebtedness, not created by law, to be submitted to a vote.

§1. Whenever it shall appear to the satisfaction of the board of supervisors of any county of this state that said county is justly indebted to any person or persons for money received into the treasury of said county, and used by said county, and which said indebtedness at the time of its creation was not authorized by law, they shall, by ordinance, declare that said county is justly indebted to the person or persons named in said ordinance, in a sum named therein, and that the question of issuing bonds in the sum therein named, for the purpose of paying said debt, shall be submitted to a vote of the legal voters of said county.

Notice of election.

§2. The supervisors of said county shall thereupon publish a notice calling an election to be held in said county, submitting to the voters of

said county the question whether said bonds shall be issued or not. The notice shall state the amount of bonds to be issued, the purpose for which they are issued; said notice shall be published, and the election held as provided by section thirty-seven of an act of the legislature of the state of California, entitled "An act to establish a uniform system of county and township governments," approved March fourteenth, eighteen hundred and eighty-three.

Return.

§ 3. If upon return of the election it shall appear that two-thirds of all the voters voting at such election have voted in favor of issuing said bonds, the supervisors are required to issue bonds in the sum named in the notice of election, payable to the creditors named in said ordinance; said bonds shall bear interest at the rate of five per cent per annum, and shall be payable at such time as the board of supervisors shall order, not exceeding twenty years from date. They shall be signed by the chairman of the board of supervisors and county clerk.

Tax levy to pay interest.

§ 4. It shall be the duty of the board of supervisors each year to levy a tax sufficient to pay the annual interest on said bonds, and to pay the principal as the same shall become due.

This act is to take effect from and after its passage.

Compare subd. 13, § 25, County Government Act, Stats. 1897, p. 460.

ACT 385.

An act providing for the destruction of municipal bonds of municipal corporations where the same have been executed and remain unsold.

[Approved February 26, 1897. Stats. 1897, p. 34.]

§ 1. Whenever there remain in the possession of any municipal corporation in this state any bonds voted to be issued for municipal purposes, which have been executed but not sold and disposed of, and the sale and disposal of such bonds shall be deemed by the board of trustees or other governing body of such city to have become impossible or inexpedient, and that their destruction is desirable, it shall be lawful for said board to give public notice of its intention publicly to destroy such bonds by a notice published for four successive weeks in the official newspaper of said city, if there be such a paper, and otherwise, in any newspaper published and circulated in said city which may be designated by said board; such notice shall specify the time and place of such intended destruction, and the reason alleged therefor, together with a general description of the character and amount of said bonds. And it shall be lawful for said board, at the time and place and in accordance with the terms of said notice, publicly to destroy said bonds unless at least three days prior to said time, written objections to such destruction shall be filed with the clerk of said city, signed by a majority of the legal voters of said city as appears by the vote cast at the last preceding general municipal election.

§2. No further or other issue of bonds in place of those thus destroyed shall be made by such city, or its board of trustees, or other governing board, unless again authorized by a vote of the people as provided by law.

§3. This act shall take effect and be in force from and after its passage.

ACT 386.

An act to authorize municipal corporations to declare all or any of their bonded indebtedness to be at once due and payable, to compromise such bonded indebtedness and to consent to a judgment in favor of the holders of the same.

[Approved March 16, 1903. Stats. 1903, p. 164.]

§1. Whenever any incorporated city or town in this state has an outstanding indebtedness evidenced by the bonds thereof the common council, board of trustees or other governing body thereof, shall have the power to submit to the qualified electors of such city or town at any election to be held for that purpose, the question of declaring all or any of such bonds to be at once due and payable, of compromising such bonded indebtedness, of consenting to a judgment in favor of the holders of such bonds, and of providing for the payment of such judgment in installments.

Said election shall be called and held in the same manner in which other elections are held in such city or town. The notice of such election shall specify the bonded indebtedness which it is proposed to declare at once due and payable, the terms of the proposed compromise of the same, of the proposed judgment by consent in favor of the holders of such bonds, and the proposed method of paying such judgment in installments.

The question shall be voted upon as an entirety. If at such election two-thirds of the qualified electors vote in favor of the question submitted, the said common council, board of trustees or other governing body shall, by ordinance, declare the bonds described in said notice of election, to be at once due and payable and thereupon shall be authorized to carry into effect the compromise and to consent to the judgment specified in such notice of election, and to the proposed method of paying the same in installments, and to designate by resolution the officers and attorneys who shall sign the necessary documents, and to provide for the collection of an annual tax, sufficient to pay the interest on such judgment as it falls due, and such a proportion of the principal thereof as is designated in such notice of election.

§2. No proceeding under section 1 hereof shall affect the rights of any nonconsenting holder of any bond or bonds specified in the notice of election.

§3. In any action brought upon any of the bonds described in the notice of election, the judgment of any court of competent jurisdiction

tion in such action, shall be conclusive as to the regularity of all proceedings taken under the provisions of section 1 of this act.

§ 4. Whenever any action is brought upon any of the bonds described in the notice of election, the plaintiff shall be required to deposit in the court in which such action is brought, the bonds upon which he sues and when the judgment of such court, rendered in accordance with the terms of the proposed compromise described in such notice of election, becomes final, the bonds sued upon shall be delivered to the treasurer of the city or town against which such judgment is rendered, to be held by him and his successors in office until such judgment shall have been satisfied in full. If for any reason such judgment should be reversed or set aside or any orders or writs thereunder should be disobeyed by the defendant or its officers, it shall be the duty of such treasurer to return said bonds to the plaintiff who thereupon may at his own option be relegated to all the rights which he held and enjoyed under such bonds, crediting, however, on such rights, all amounts already received on such judgment. The performance of the duty imposed herein upon such treasurer may be enforced by the court in which such judgment is rendered.

§ 5. All acts or parts of acts conflicting with this act are hereby repealed.

§ 6. This act shall take effect immediately.

ACT 387.

An act in relation to municipal bonds.

[Approved February 28, 1903. Stats. 1903, p. 61.]

§ 1. Whenever the owner of any coupon bond, or of any bond payable to bearer, already issued or hereafter issued by any municipal corporation now or hereafter existing in this state, shall present any such bond to the treasurer or other officer of such corporation, who by law performs the duties of treasurer, with a request for the conversion of such bond into a registered bond, such treasurer, or such other officer, shall cut off and cancel the coupons of any such coupon bond so presented, and shall stamp, print, or write upon such coupon bond, or such other bond payable to bearer, so presented, either upon the back or upon the face thereof, as may be convenient, a statement to the effect that the said bond is registered in the name of the owner, and that thereafter the interest and principal of said bond are payable to the registered owner. Thereafter, and from time to time any such bond may be transferred by such registered owner in person, or by attorney duly authorized on presentation of such bond to such treasurer, or such other officer, and the bond be again registered as before, a similar statement being stamped, printed, or written thereon. Such statement stamped, printed, or written upon any such bond may be in substantially the following form.

(Date, giving month, year, and day.)

This bond is registered pursuant to the statute in such cases made and provided in the name of — (here insert name of owner) and the interest and principal thereof are hereafter payable to such owner.

_____,
Treasurer (or such other officer).

After any bond shall have been registered as aforesaid, the principal and interest of such bond shall be payable to the registered owner. Such treasurer, or such other officer, shall keep in his office a book or books which shall at all times show what bonds are registered and in whose names respectively.

§2. Whenever under any statute of this state or any charter of any municipal corporation in this state, any bonds are issued, whether the proceedings for the issuance of such bonds have been had in whole or in part prior to the enactment of this statute, or whether the same have been had in whole or in part after the enactment of this statute, such bonds may be issued either in the form of coupon bonds, or in the form of registered bonds, or some in the form of coupon bonds, and some in the form of registered bonds, as has been or hereafter may be provided in the proceedings for the issuance of such bonds, and notwithstanding any language or provision to the contrary contained in any such statute or charter authorizing the issuance of the bonds, or in any other law of the state. The provisions of section 1 of this act shall apply to coupon bonds, so issued, as well as to other coupon bonds, or other bonds payable to bearer.

§3. This act shall take effect immediately.

ACT 388.

An act to authorize municipal corporations to issue bonds, for the purpose of investing the proceeds arising from the sale thereof, in other bonds issued for public improvements.

[Approved April 26, 1909. Stats. 1909, p. 1096.]

Bonds to provide funds for improvement.

§1. Any municipal corporation in the state of California may incur a bonded indebtedness to provide a fund to be called a "general improvement fund," and said fund may be invested or reinvested in any bonds issued by such municipality, or bonds issued for street work or other public improvements, under any act of the legislature providing for the performance of street work or other public improvements.

How issued.

§2. The bonds authorized to be issued under the provisions of this act shall be called "investment bonds," and shall be issued in the manner provided for in an act entitled "An act authorizing the incurring of indebtedness by cities, towns and municipal corporations for municipal improvements, and regulating the acquisition, construction and completion

thereof," in effect February 25, 1901, and amendments thereto; provided, that the ordinance calling for the election therein provided for, need not contain any statement as to the estimated cost of the proposed public improvement. Such bonds when issued, shall be redeemed and paid as provided in the above herein mentioned act.

Investment of bonds. Reinvestment.

§ 3. It shall be the duty of the legislative branch of every town, city or municipal corporation availing itself of this act, to keep the funds arising from the sale of bonds issued under this act, separate and distinct from all other municipal funds, and to invest and reinvest the same in the serial improvement bonds issued for street sewer, drainage or other improvements within said municipality, and to collect the interest on said bonds and credit the same to said fund, and said municipality shall have the right to sell, at the discretion of its legislative branch, any of said serial bonds by it purchased, provided that they shall not sell said bonds at a price less than the price paid therefor, and said purchase price of said bonds so sold, together with the accrued interest thereon, shall be credited to the said "general improvement fund," and may be again reinvested in serial bonds, as aforesaid, the intention being that said general improvement fund shall constitute a revolving fund, for the purpose of enabling the property owners to pay their serial bonds in annual installments to the city, and thus enable the municipality to let contracts for the completion of said improvement, on a cash basis.

§ 4. The provisions of this act shall not repeal nor modify the provisions of any other act.

§ 5. This act shall take effect and be in full force and effect from and after its passage.

ACT 389.

An act to legalize bonds to be issued and sold by municipalities where authority for such issuance has already been given by a vote of more than two-thirds of the electors of such municipality.

[Approved March 24, 1909. Stats. 1909, p. 689.]

§ 1. In all cases where the legislative branch of any municipality in the state of California, organized under an act of the legislature of said state, entitled: "An act to provide for the organization, incorporation and government of municipal corporations," approved the 13th day of March, 1883, has deemed it necessary to incur any indebtedness in excess of the money in the treasury, applicable to the purpose for which said indebtedness is to be incurred, and has called a special election of the qualified electors of such municipality to determine whether such indebtedness as specified in the resolution or ordinance calling such election shall be incurred, and where, at such election, not less than two-thirds of all the qualified electors voting at such election shall have voted in favor of incurring such indebtedness, and such legislative branch of such municipality shall have passed an ordinance providing

for the mode of creating such indebtedness and of paying the same, and the mode of creating such indebtedness has been by the proposed issuance of the bonds of such municipality all the proceedings of such municipality leading up to and including the issuance and the proposed issuance of such bonds are hereby validated, legalized, ratified, confirmed and declared valid to all intents and purposes; and all such bonds, sold after the passage of this act for not less than their par value are hereby legalized and declared to be legal and valid obligations of and against such municipality so issuing and selling the same, and the faith and credit of such municipality is hereby pledged for the prompt payment and redemption of the principal of such bonds and the coupons thereto attached; provided this act shall not operate to legalize any bonds of any municipality already sold or any bonds that have not, at the time of the passage of this act, been authorized by not less than two-thirds of the qualified electors of such municipality voting at any such election.

§2. This act shall take effect and be in force from and after its passage.

Former act on this subject can be found in Stats. 1907, p. 104.

Citations. Cal. 151/478.

TITLE 56.

BOOMS.

ACT 392.

Authorizing boards of supervisors to grant franchises for constructing booms. [Stats. 1881, p. 25.]

Superseded by subd. 35, §25, County Government Act, 1897, p. 466. Repealed 1901, p. 265.

TITLE 57.

BOUNDARIES OF STATE.

ACT 397.

To provide for the correction and establishment of the eastern boundary of the state. [Stats. 1889, p. 38.]

Perhaps obsolete, for it provided the work was to be done in one year.

ACT 398.

To define and establish a portion of the eastern boundary of the state of California. [Became a law under constitutional provision without governor's approval, March 1, 1901. Stats. 1901, p. 89.]

TITLE 58.

BOUNTIES.

ACT 403.

Fixing a bounty on coyote scalps. [Stats. 1891, p. 280.]

Repealed 1895, p. 1.

Citations. Cal. 106/116, 120, 125; 141/355; 144/688, 686, 689, 693, 694, 696.

Construed in *Bickerdike v. State*, 144 Cal. 681, 698.

TITLE 59.
BRANCIFORTE.

ACT 408.

To settle land titles in the town of Branciforte, Santa Cruz County.
[Stats. 1863-64, p. 443.]

TITLE 60.
BRAZOS DEL RIO.

ACT 413.

Changing the name of the town of Brazos del Rio in Solano county to Rio Vista. [Stats. 1861, p. 12.]

TITLE 61.
BRIDGES.

ACT 418.

Authorizing cities to maintain drawbridges across navigable streams flowing through or penetrating the boundaries of such cities. [Stats. 1883, p. 295.]

ACT 419.

An act concerning bridges across navigable streams.
[Approved February 25, 1897. Stats. 1897, p. 21.]

§1. The board of supervisors of any county in this state now controlling or maintaining, by virtue of any statute, any bridge across any navigable stream wholly or in part within the boundary lines of any municipal corporation, is hereby authorized and empowered, whenever it may become necessary, in the interest of commerce or by reason of any such bridge being out of repair, to reconstruct and rebuild any part of such bridge, or replace such bridge by a new structure, or with the consent of the governing bodies of such municipalities change the location of such bridge to such place on such stream as may be better suited to its use, or to the use of such navigable stream; and the board of supervisors of any county is hereby authorized to abandon any such existing bridge and rebuild a new bridge at such changed location, and the board of supervisors of any such county so rebuilding and reconstructing said bridge may enter into an agreement with any person or corporation, now maintaining any bridge across any such navigable stream, for the building of a joint bridge for the purpose of preventing the impeding of commerce on such navigable streams, and of apportioning the expense between said county and said person or any corporation, in such manner as may be agreed upon between said county and said person, or corporation.

§2. The expense of said reconstruction, or the building of a new bridge, to be payable out of the same fund as is now provided by law for the maintenance and repair of any such bridge; provided, that in case said county should make such agreement with said person or corporation

for the building of any joint bridge, that only the county's portion of said joint bridge, as may be settled by said agreement, shall be paid from the said funds; and, provided, that in no event shall the county pay more than one-half the cost of construction, repair or reconstruction of any such joint bridge.

§ 3. All acts or parts of acts in conflict herewith are hereby repealed.

§ 4. This act shall take effect from and after its passage.

ACT 420.

An act to provide for bridges across navigable streams, and across estuaries, ponds, swamps, or arms of bays that may be outside of the line of navigable waters.

[Approved March 14, 1881. Stats. 1881, p. 76.]

Power of supervisors to erect bridges.

§ 1. The power to erect bridges on public highways across navigable streams in this state, or to grant franchises to individuals, or corporations for the same, is hereby granted to the boards of supervisors of the several counties of the state, under the restrictions of this act.

Regulation of tolls, by whom exercised.

§ 2. The power to grant franchises to individuals or corporations to construct bridges, and the regulation of tolls thereon, shall be exercised by the county on the left bank of all streams.

Supervisors may join between counties.

§ 3. Where a navigable stream is the boundary line between the counties, the boards of supervisors of such counties may join in the construction of a bridge, upon such terms as may be agreed upon; provided, however, that in case of a failure to agree, either county may build the bridge and maintain control thereof.

Notify state engineer.

§ 4. Whenever the supervisors of any county or counties desire to erect a bridge on any public highway, or to grant the privilege so to do to any individual or corporation, across a navigable stream, under the provisions of this act, said board, or boards shall notify the state engineer of such purpose, and of the precise point where such bridge is proposed to be located. The state engineer shall, within ten days of the receipt of such notice, designate the width of the draw to be made in such bridge, and also the length of the spans necessary to permit the free flow of water.

Hearing before state engineer.

§ 5. The communication from the state engineer, fixing the draw and spans, shall be spread upon the minutes of the board, and any bridge constructed at that point shall be in conformity therewith; provided, however, that the state engineer may, upon hearing before him, had upon the application of any person or body interested, made within ten days

after the receipt by said board of supervisors of said communication of said engineer, change his first plans, in which case the modified plans must be so spread upon the minutes, and shall stand in the place of the original; provided, however, that before such hearing is had, the said engineer must give ten days' notice by publication in some newspaper published in the county or counties from which the application came, of the time and place of the hearing.

Surveyor general, when may act.

§ 6. In case of the absence or inability of the state engineer to act, the duties devolving upon him under this act shall be performed by the state surveyor general.

Rates of toll, by whom fixed.

§ 7. When a bridge shall be built on a navigable stream by one county, or two counties, it may be absolutely free, or tolls sufficient to pay in whole or in part, for the construction, and to keep up the repairs and expenses thereof, may be charged; the rate to be fixed by the board of supervisors of the county in which the same is located, or, if located in two counties, then by the board of supervisors of the two counties, or if there be any disagreement between said boards, as to imposing or removing tolls, or the rate, the matter in dispute shall be referred to the board of supervisors of some neighboring county for determination, and its decision, communicated in writing to the clerks of the said boards respectively, shall be final; and if tolls are fixed or removed thereby, the same shall take effect on the tenth day from the date of such written determination.

Supervisors to declare necessity for building bridges.

§ 8. The board of supervisors, or other governing body of any city and county, or county, in this state, shall have power to declare that it is necessary for the public convenience to have a bridge or bridges built across any estuary, swamp, pond, or arm of a bay that may lie or extend into the county, or city and county, and prescribe the points between which said bridge or bridges shall be built, and when they shall have specified the points between which it is, in their judgment, necessary to build the said bridge or bridges, they may let contracts to build the bridges, as aforesaid, and pay for the same out of the general fund of the city and county, or county.

§ 9. This act shall take effect immediately.

ACT 421.

An act to enable adjoining counties to enter into agreements for the construction, rebuilding, replacing, or relocation of bridges over navigable waters between said counties, jointly with other persons or corporations.

[Approved March 23, 1907. Stats. 1907, p. 982.]

§ 1. In case it shall appear to the boards of supervisors of two adjoining counties that any bridge shall be necessary for highway pur-

poses, over any navigable river, stream, or inlet of the sea, between said counties, or if any bridge existing thereover and used wholly or in part for highway purposes, (whether the same is owned by said counties or either of them, or used by them or either of them by agreement with the owner thereof,) shall, in the interests of commerce, or by reason of such bridge being out of repair or deteriorated beyond reasonable repair, require reconstruction, or rebuilding, or replacing by a new structure, or its location to be changed to such place on such navigable river, stream, or inlet of the sea, as may be better suited to its use, or to the use of such navigable water, or may tend to prevent obstruction to commerce thereon, the boards of supervisors of such counties may, in their discretion, enter into an agreement with any person or corporation for the building of a joint bridge, or the reconstruction, or rebuilding, or replacing by a new structure of such existing bridge, or the rebuilding thereof at another location, and the joint use of the same thereafter by such person or corporation, and said counties or the public, and for apportioning the expense of such joint reconstructed or relocated bridge between said counties and each of them and such person or corporation jointly using or to use the same, and to provide for the construction and use thereof in such manner and upon such terms and conditions as may be agreed upon between such counties and such person or corporation. In such case none of the provisions of subdivision 4 of section 25 of an act entitled "An act to establish a uniform system of county and township government," approved April 1, 1897, shall be applicable thereto; provided, that in no event shall either county agree to contribute more than one-third of the cost of construction, reconstruction, relocation, or repair of any such joint bridge.

§2. This act shall take effect immediately.

TITLE 62. BROOKLYN.

ACT 425.

Incorporating Brooklyn. [Stats. 1869-70, p. 680.]

Amended 1871-72, p. 409.

Brooklyn is now a part of Oakland.

TITLE 63. BUILDING AND LOAN ASSOCIATIONS.

ACT 429.

An act creating a bureau of building and loan supervision; providing for the appointment of administration officials therefor to be known as the building and loan commissioners; prescribing their duties, powers and compensation; providing for a secretary, his powers and compensation; providing for the rental of offices for the use of the bureau and for traveling and office expenses; providing a system for licensing building and loan and other associations, and for assessing and collecting the license fees necessary to meet the salaries and other expenses; providing a course of procedure where viola-

tions of law, or unsafe practices are found to exist, or are reported by the commissioners to the attorney-general; providing for involuntary liquidation by trustees, and proceedings in connection therewith; providing for exemption of property of associations in liquidation from attachments, executions and liens, pending liquidation; providing for and requiring associations to procure licenses, pay assessments levied for pro rata of salaries and expenses, and to make and file reports; providing penalties for violations of law and orders of the commissioners; providing for succession in office, and repealing all acts and parts of acts in conflict herewith.

[Approved March 21, 1905. Stats. 1905, p. 659. Amended 1907, p. 931; 1909, p. 544.]

§ 1. There is hereby created a bureau, to be known and designated as the "Bureau of Building and Loan Supervision," with powers of supervision, examination and license of all building and loan associations, mutual loan associations, co-operative home associations, and all other corporations, associations and societies, whenever, wherever and however formed, which, in the judgment of the administration of said bureau, are based, or are operating on plans or methods similar to building and loan associations as defined in section 648 of the Civil Code; it is also charged with the enforcement of all laws designed for the formation, government or operation, in this state, of any such association, corporation or society.

§ 2. The administration of said bureau shall be vested in two commissioners, to be known and designated as the "Building and Loan Commissioners," who shall be appointed by the governor (except as herein provided) and commissioned to hold office for the term of four years and until their successors shall be appointed and have qualified. They must be citizens of this state and residents of different counties; and they must not be in any way connected with any association, corporation or society coming under their supervision. They shall be authorized and empowered to appoint a secretary, with powers of examination the same as their own, who must be a practical, skilled accountant, fully conversant with building and loan accounts.

§ 3. The commissioners shall each receive a salary of three thousand dollars per annum, and their secretary shall receive a salary of not exceeding eighteen hundred dollars per annum. There shall also be allowed and paid the necessary traveling expenses of the commissioners and their secretary, not to exceed the sum of two thousand dollars per annum. The commissioners shall procure and have an office in the city of San Francisco, which office shall be kept open for business every business day, during such hours as are commonly observed by the banks of that city as banking hours, and they may also, when in their judgment it is necessary, procure and have an office in the city of Los Angeles. For said offices there shall be allowed and paid a total rental of not exceeding one hundred dollars per month. Said commissioners may also provide such fuel, stationery, printing, postage, office help and other

necessary conveniences as may be requisite in such office, at a cost not to exceed in the aggregate, the sum of five hundred dollars per annum. All said salaries and expenses shall be audited and paid in the same manner as the salaries and expenses of other state officers. [Amendment approved March 20, 1909. Stats. 1909, p. 545. In effect immediately. Also amended 1907, p. 931.]

§4. Before entering upon their respective duties the commissioners must each execute an official bond in the sum of five thousand dollars and the secretary a like bond in the sum of two thousand dollars, and each must take the oath of office as prescribed by the Political Code for state officers in general.

§5. It shall be the duty of the commissioners to furnish to all associations, corporations or societies, which, in their judgment, legally come under their jurisdiction, and that have otherwise complied with the requirements of law, a license authorizing them to transact business for one year from the date of said license; to receive and place on file in their office the annual or other reports required by law to be made by building and loan associations or other corporations or societies licensed by them; to supply each with blank forms for such statements; and to make, on or before the first day of October in each year, a tabulated report to the governor of the state, showing the condition of all such associations, corporations or societies reporting to them, with such recommendation as they may deem proper, accompanied by a detailed statement of all moneys received by them since their last report, and the disposition thereof.

§6. It shall be the duty of one or both of the commissioners, in person, at least once in each year, without previous notice, to visit and examine into the affairs of every such association, corporation or society licensed by them, incorporated or doing business in this state; on such occasions they shall have free access to all the books, records, securities and papers of every such association, corporation or society, and shall first count the cash and check the bank balance of such corporation or association with the proper amount of funds as shown by the books to be on hand and at the date and hour of such examination, and shall then examine and verify the books, accounts, and securities, and, so far as possible and consistent, the values of all property owned or held as collateral security for moneys loaned, and otherwise use reasonable diligence to ascertain the financial condition and solvency thereof. They and their secretary shall have power to administer oaths in the line of duty, and to examine under oath the officers, employees and agents, or the custodian or receiver, relative to any or all the business thereof. The commissioners or their secretary or representative shall receive for any examination into the books and affairs of any such association, corporation or society formed outside of the state of California and applying for a license to do business in this state, their reasonable expenses, which shall be paid by the association, corporation or society so examined; provided, that they may accept the result of any such examination made by

the duly constituted authorities of any state having similar laws of supervision.

§ 7. To facilitate the examinations specified in the foregoing section, they shall require every such association, corporation, or society to keep its books in such form as to accurately show its assets and liabilities in detail and to keep records written in ink, showing the appraised and assessed values of the real estate security held in connection with each loan, and signed in each case by the appraiser, officer or committee charged with making such estimated valuations. The commissioners shall make a revaluation of the real estate owned, and of the other securities of any such association, corporation or society licensed by them, on which the loan payments may be delinquent for six months or more, and may, for that purpose, appoint local appraisers, who shall be disinterested persons, at the expense of such association, corporation or society; the expense of such appraisalment to be fixed by the commissioners, but not to exceed the sum of five dollars for property located outside of any incorporated limits and three dollars for property located inside of any incorporated limits for each property so examined and appraised. Each appraiser so appointed shall be required to make a sworn report to the commissioners of his estimated valuations of all property so examined and appraised.

§ 8. The commissioners shall have power to issue subpoenas and require attendance of any or all trustees, or agents of any such association, corporation or society, and such other witnesses as they may deem necessary, in relation to its affairs, transactions and condition, and any such person so served with such subpoena may upon application of the commissioner be required by order of the superior court of the county where the corporation, association or society has its principal place of business, to appear and answer such pertinent questions as may be put to him by such commissioner and be required to produce such books, papers or documents in his possession as may be required by such commissioner.

§ 9. If the commissioners, upon any examination, or from any report made to them or to the shareholders, shall find that any association, corporation or society licensed by them, is violating the provisions of its charter or of the laws of this state provided for its government, or is conducting its business in an unsafe or unauthorized manner, they may, by an order, addressed to the association, corporation or society so offending, direct a discontinuance of such violations or unsafe practices and a conformity with all the requirements of law; and if such association, corporation or society shall refuse or neglect to comply with such order within the time specified therein; or if it shall appear to the commissioners, in their opinion, that any such association, corporation or society is in an unsafe condition, or is conducting its business in an unsafe manner, such as to render its further proceeding hazardous to the public or to those having funds in its custody, they shall notify the attorney general of such facts and furnish him with a statement showing its condition, as the same may have been found to exist; at the same time they

shall notify the officers of such association, corporation or society of the fact of such report having been made and direct them to cease the transaction of any new business, and to hold all moneys, securities and property intact, pending the action of the attorney general on such report. The attorney general shall thereupon apply to the superior court, of the county in which such association, corporation or society has its principal place of business, to issue an injunction restraining it, in whole or in part, from further proceeding with its business until a hearing can be had. Such court may, in such application, issue such injunction, and after a full hearing may dissolve or modify it, or make it perpetual, and may make such orders and decrees according to the course of proceedings in equity, to restrain or prohibit the further prosecution of business by such association, corporation or society, as may be needful in the premises; and may appoint one or more receivers to take possession of its property and effects, subject to such directions as may from time to time be prescribed by the court; or it may, by its decree, order and direct that, in lieu of the appointment of a receiver, the business and affairs be liquidated by a board of trustees equal in number to the board of directors, to be elected by the shareholders, at a meeting thereof, to be called for such purpose and held within two weeks from and after the first Monday succeeding the date of such order and decree; such meeting to be called and held on the order of the commissioners, one of whom shall be present and preside until such election shall be had; whereupon he shall report the result to the proper court, and thereupon the term of office of the existing board of directors and of all the officers shall cease and determine. Such board of trustees, when so elected, shall at once assume office and have possession and control of all the property and assets for the purpose of liquidation; and such liquidation shall be conducted by such board under the supervision of the commissioners, who shall have full power to limit the time within which it shall be accomplished, and to limit the number of employees and the salaries and expenses that shall be allowed and paid. The issuance of an injunction, in the manner herein provided, shall operate to dissolve or stay any and all attachments or executions initiated or levied within thirty days next preceding the date of notification of the attorney general by the commissioners; and, pending the process of liquidation as ordered by the court, no attachment or execution shall be levied, nor lien created, upon any of the property of such association, corporation or society.

§10. Whenever a receiver or receivers are appointed, or trustees elected in lieu thereof, the commissioners shall require the president and secretary of such association, corporation or society to, and such officers shall, make a schedule of all its property and make oath that such schedule sets forth all the property which such association, corporation or society owns or is entitled to, and deliver said schedule and possession of the property to the receivers or to the trustees, and a copy of such schedule to the commissioners, who may at any time examine under oath such president and secretary, or other officers, to determine whether or

not all the property which such association, corporation or society owns, or is entitled to, has been transferred to such receivers or trustees.

§ 11. Receivers, or trustees elected in lieu thereof, must, at least annually, make due report of all their doings and accounts to the proper court, and immediately thereafter file a copy thereof with the commissioners; and the commissioners shall, at least once in each year and as much oftener as they may deem expedient, examine the accounts, doings and reports of such receivers or trustees, and, for such purpose, shall have full and free access to all books, accounts and vouchers relating to any such liquidation, and any defect, irregularity, or misconduct on the part of such receivers or trustees, as they may find to exist, shall be, by the commissioners, reported to the proper court. [Amendment approved March 20, 1909. Stats. 1909, p. 546. In effect immediately.]

§ 12. Upon the certificate, under oath, of any ten or more officers, trustees, creditors, shareholders or depositors of any such association, corporation or society, setting forth their interest and the reason for the making of such examination, directed to the commissioners, and requesting them so to do, they shall forthwith make a full investigation of its affairs, in the manner provided.

§ 13. If either of the commissioners, having knowledge of the insolvent condition, or of any violation of law or unsafe practice of any such association, corporation or society under their supervision, such as renders, in their opinion, the conduct of its business hazardous to its shareholders, creditors or depositors, shall fail to take the proper action required by this act, or shall refuse or neglect to perform the official duties pertaining to his office, then upon conviction thereof the office of such commissioner shall be declared vacant by the governor, and a successor be appointed to fill the unexpired term.

§ 14. To meet the salaries and expenses provided for by this act, the commissioners shall require every association, corporation or society licensed by them or coming under their supervision to pay in advance, to them, and prior to the issuance of any license, its pro rata amount of all such salaries and expenses, and it is hereby made the duty of every such association, corporation or society to pay the same; such pro rata shall be fixed and determined by the proportion which its assets bear to the aggregate assets of all such associations, corporations, or societies, receiving licenses, as shown by the last reports of such corporations, associations, or societies to the commissioners. On or before the thirtieth day of December, in each year, the commissioners shall notify each of such associations, corporations or societies, through the United States mail, of the amount assessed and levied against it and that the same must be paid within twenty days thereafter; and should payment not be made to them within said twenty days, they shall then assess and collect a penalty, in addition thereto, of ten per cent per day for each day that such payment may be delayed or withheld; provided, however, that in the levy and collection of such assessment, no such association, corpora-

tion or society shall be assessed for, nor be permitted to pay less than ten dollars per annum, and any such association hereafter formed in this state, shall be required to pay not less than one dollar per month for the unexpired term ending December thirty-first, succeeding application; and in like manner any such association organized outside this state shall be required to pay not less than three dollars per month, for such unexpired term, for its first license.

§15. It shall be the duty of the commissioners to require every such association, corporation or society coming under their supervision, to procure from them, prior to the transaction of any business, a certificate or authority or license to transact business in this state; and it is hereby made the duty of every such association, corporation or society to comply with such requirement. To procure such license, there must be filed with and approved by the commissioners, a certified copy of its articles of incorporation, constitution and by-laws and all subsequent amendments thereto, accompanied by the license fee herein provided for; and after the expiration of the term for which a license may have been granted to it, no such association, corporation or society shall be permitted to continue to transact business without first procuring a renewal of such license on the terms provided in this act, and any such association, corporation or society violating the provisions hereof shall be subject to a penalty of ten per cent per day of the amount of the license fee required to be paid under section fifteen of this act, in addition thereto, for each day during the continuance of such offense. The commissioners are authorized and empowered to revoke the license of any such association, corporation or society under their supervision, the solvency whereof may have become imperiled by losses or irregularities; and immediately upon the revoking of any such license they shall report the facts to the attorney general, who shall thereupon take such proceedings as are provided in section 9 of this act.

§16. The commissioners shall require every association, corporation or society licensed by them, and including associations in liquidation, within thirty days after the close of its annual fiscal term to make a report to them in writing, verified by the oath of its president and secretary, showing accurately its financial condition at the close of such term; such report shall also include all the receipts and disbursements and income and expenses for the term, together with such statistical and other information as may be deemed essential; all and every of such reports shall be in such form as the commissioners may prescribe, and upon blanks to be by them furnished therefor. Every such association, corporation or society is hereby required to make and file all such reports within the time specified herein, and for failure or neglect so to do shall be subject to a penalty of ten dollars per day for each and every day the same shall be delayed or withheld.

§17. The collection of all moneys assessed, as herein provided, for the payment of salaries and annual expenses, or forfeitable as fines for failure to make payments of assessments, procure licenses, or make

and file reports as herein specified, and due from any such association, corporation or society coming within the provisions of this act, or imposed as a penalty for violation of any order or summons, may be enforced by the commissioners, by action instituted in any court of competent jurisdiction; and all moneys collected or received by the commissioners under this act, shall be deposited with the state treasurer, to be credited to a fund to be known and designated as the "building and loan inspection fund"; which said fund shall only be used in defraying the salaries and expenses provided for by this act.

§ 18. This act shall not be construed as affecting the terms of office of the commissioners appointed under and by virtue of an act entitled "An act creating a board of commissioners of the building and loan associations and prescribing their duties and powers," approved March twenty-third, eighteen hundred and ninety-three, and acts amendatory thereof, and such commissioners are hereby created the building and loan commissioners for the unexpired terms for which they were appointed, and they and their secretary are hereby vested with all the powers and duties, and are entitled to all the emoluments herein provided for; and they and their successors in office, as the building and loan commissioners herein provided for, shall succeed to all the rights, privileges and benefits, and to the control and possession of all records, property and funds in the possession of or enjoyed by the board of commissioners of the building and loan associations appointed under and by virtue of said act of March twenty-third, eighteen hundred and ninety-three.

§ 19. All acts and parts of acts, including an act entitled "An act creating a board of commissioners of the building and loan associations and prescribing their duties and powers," approved March twenty-third, eighteen hundred and ninety-three, and all acts amendatory thereof, are hereby repealed.

§ 20. This act shall take effect and be in force from and after its passage.

ACT 430.

Creating a board of commissioners of building and loan associations and prescribing their powers and duties. [Stats. 1893, p. 229.]

Amended 1895, p. 103. Repealed 1905, p. 666. See ante, Act 429.

Citations. Cal. 127/405, 407; 141/75, 78; 143/258.

TITLE 64.

BUOYS AND BEACONS.

ACT 432.

For the protection of buoys and beacons. [Stats. 1873-74, p. 619.]

This act appears in full in the Appendix to the Penal Code, p. 754.

Codified in part by § 609, Penal Code: See Penal Code, § 609, note.

Similar act, see post, Act 4854.

TITLE 65.**BURIAL.****ACT 433.**

To protect the public health from infection caused by the exhumation and removal of human remains. [Stats. 1877-78, p. 1050.]

Amended 1889, p. 189.

Citations. Cal. 58/227; 186/268.

See post, Act 545.

TITLE 66.**BURNED OR DESTROYED RECORDS OR DOCUMENTS.****ACT 434.**

An act relating to the restoration of court records which have been lost, injured or destroyed by conflagration or other public calamity. [Approved June 16, 1906. Stats. 1906, p. 73.]

This act appears in full in Code of Civil Procedure, Appendix, p. 846.

Citations. Cal. 150/801, 802, 803, 804, 805, 806, 826; 154/315.

ACT 435.

An act providing for the disposition of actions and proceedings in which bills of exceptions and statements on motion for a new trial have been lost or destroyed by conflagration or other public calamity.

[Approved March 23, 1907. Stats. 1907, p. 998.]

§1. When any proposed bill of exceptions, or statement of the case on motion for a new trial, in action or proceedings, is lost or destroyed by reason of conflagration or other public calamity, and no other record of the proceedings upon the trial thereof can be obtained, and such action or proceeding is subject to review by motion for new trial, pending at the time of such loss or destruction, and it is by the court in which such action or proceeding is pending deemed impossible or impracticable to restore such proceedings (and to settle a bill of exceptions or statement of the case containing such proceedings) so as to enable the court to review the judgment or order therein by motion for new trial, the court may grant a new trial of such action or proceeding if at the time of such loss or destruction a motion for new trial be pending therein, and such action or proceeding shall thereupon be tried anew. In order to grant such new trial, it shall be unnecessary to have any bill of exceptions or statement of the case settled, but upon the facts above recited being shown to the satisfaction of the court by affidavit or otherwise, the court shall have power in its discretion to grant such new trial.

§2. Pending the hearing of a motion under the preceding section to grant such new trial, the time within which a bill of exceptions might be prepared, served or presented for settlement, shall be extended, and shall not commence to run until the decision upon such motion. (The motion provided for by this act must be made within thirty days after

the loss or destruction of such records; provided that in any case now pending such motion may be made at any time within sixty days after the passage of this act.)

§ 3. This act shall take effect immediately.

Citations. App. 7/79, 80.

ACT 436.

An act to provide for the establishment and quieting of title to real property in case of the loss or destruction of public records. [Approved June 16, 1906. Stats. 1906, p. 78. Amended 1909, p. 163.]

This act is in full in Code of Civil Procedure, Appendix, p. 839; see, also, this act, post, Act 1048.

ACT 437.

An act supplementary to the above act and providing for the making and recordation of notice of ownership or claim to real property. [Approved March 23, 1907. Stats. 1907, p. 950.]

This act appears in full in Code of Civil Procedure, Appendix, p. 844.

ACT 438.

An act to provide for the reproduction of the register of the Board of Medical Examiners, the Board of Dental Examiners, or the Board of Pharmacy, where the same has been destroyed by conflagration or other public calamity.

[Approved June 16, 1906. Stats. 1906, p. 82.]

§ 1. Whenever the register or book of registration of the Board of Medical Examiners of the State of California, the Board of Dental Examiners of California, or the Board of Pharmacy, has been or may hereafter be destroyed by fire or other public calamity, the board whose duty it is to keep such register or book is hereby authorized to reproduce such register or book so that the same may show as nearly as possible the record existing in the original register or book at the time of such destruction.

§ 2. For the reproduction of the destroyed register or book the board shall make use of such existing official printed registers, books, or matter, certificates, affidavits to be presented, or other official information as may be available and which may appear to said board to be authentic, and upon the completion of the said reproduction said board shall by resolution adopt such reproduced register or book as the register or book of said board, and thereafter the same shall be taken and used to all intents and purposes as well for evidence as otherwise as if the same were the original register or book.

§ 3. This act shall take effect immediately.

ACT 439.

An act enabling the restoration of an assessment-roll when the same has been destroyed.

[Approved June 16, 1906. Stats. 1906, p. 83.]

§1. Wherever, through loss by fire, or other public calamity, the assessment-roll of a city, city and county, county or other political subdivision of the state in course of preparation by the assessor of any city, city and county, county or other political subdivision of the state, shall have been or shall be destroyed and such burnt or destroyed record shall have been reconstructed from such data as is available, it shall be lawful for the assessor at any time prior to the sale for delinquent taxes after such assessment is compiled, to correct any assessment erroneously made, provided, however, that any correction so made shall at once be certified to in writing by the assessor, to the tax collector, the auditor and the state controller, and provided, further, that the assessor shall enter opposite said assessment on the assessment-roll, the date and nature of said correction. Such change shall be recognized by any city, city and county, county or state official whose duty it is to make or exact a financial statement based on said assessment-roll, and in making such settlement any alterations resulting from such changes shall be recognized by such officials.

§2. This act shall take effect immediately.

ACT 440.

An act to provide for the issuance of duplicates of bonds, warrants and other municipal securities which have become defaced or mutilated.

[Approved February 23, 1907. Stats. 1907, p. 53.]

Mutilated municipal bonds, duplicates may be issued.

§1. Whenever it shall be made to appear to the legislative body of any county, city and county, city, town, irrigation district, school district or other municipal corporation, by clear and unequivocal proof, that any bond, warrant, or other evidence of indebtedness of said county, city and county, city, town, irrigation district, school district, or other municipal corporation has, without bad faith upon the part of the owner, been so mutilated or defaced as to impair its value to the owner, and such instrument is capable of being identified by number and description, such legislative body shall, under such regulations and with such restrictions as to time and retention for security or otherwise, as it may prescribe, and upon the conditions hereinafter provided, issue or cause to be issued a duplicate thereof, having the same time to run, bearing like interest, and having the same number as the evidence of indebtedness so proved to have been mutilated or defaced.

Procedure to procure duplicates.

§2. The owner of such bonds or other evidences of indebtedness desiring to have issued duplicates for the same shall make a written

application therefor to the legislative body of such municipal corporation, setting forth the facts provided by section 1, and shall accompany such request with a deposit of such sum of money as shall be deemed sufficient by such legislative body to cover the cost of printing or lithographing, or otherwise preparing such duplicate, and all other expenses connected with the issuance thereof, and if required by such legislative body, shall also file therewith a bond in such sum as may be required, with good and sufficient sureties, to be approved by such legislative body, with condition to indemnify and save harmless such municipal corporation from any claim upon such mutilated or defaced security.

Duty of municipal legislature. Cancellation of original decision.

§ 3. The legislative body of such municipal corporation shall thereupon pass a resolution, setting forth the fact of said application and the compliance with the conditions herein prescribed, and with such further conditions as shall have been required by said legislative body in accordance herewith, and directing the officer or officers who had charge, in the first instance, of causing to be printed, lithographed, or otherwise prepared the original bond, warrant, or other evidence of indebtedness, to cause to be issued a duplicate thereof, as herein provided. Such duplicate bond, warrant, or other evidence of indebtedness shall be signed by the same officers, and issued in all respects as nearly as possible as the original instrument, and when so prepared and issued shall be delivered in exchange for the original bond, warrant, or other evidence of indebtedness, provided, that no exchange shall be made unless such defaced or mutilated bond, together with any coupons thereon for which duplicates shall be issued in accordance with this act, shall be capable of identification, and shall first be surrendered by the owner thereof. When surrendered, the legislative body of such municipal corporation shall cause proper record to be made of the cancellation of such original security, and thereafter the duplicate issued in accordance with the provisions of this act, shall have all the force, effect and validity of the original evidence of indebtedness.

§ 4. This act shall take effect immediately.

ACT 441.

An act providing for the issuance of duplicate certificates, where certificates issued under authority of law have been lost or destroyed by conflagration or other public calamity.

[Approved June 16, 1906. Stats. 1906, p. 71.]

§ 1. Whenever any public board or officer is authorized by law to issue any certificate of any kind, and the records in the office of such board or officer show the issuance of such certificate, and it is made to appear by affidavit that such certificate has been lost or destroyed by conflagration or other public calamity, such board or officer may issue a duplicate of such certificate, which shall recite the issuance and loss or destruction of such original certificate, and shall have the same force

and effect as such original certificate; provided, that this act shall not apply to certificates of acknowledgments.

§2. This act shall take effect immediately.

ACT 442.

An act to provide for the copying of books, documents, maps or records required by law to be kept or preserved by city, county, or city and county officers, which have been damaged by conflagration or other public calamity.

[Approved June 16, 1906. Stats. 1906, p. 72.]

§1. Whenever any book, document, map or record required by law to be kept or preserved by any city, county, or city and county officer has been or may hereafter be damaged by conflagration or other public calamity, it shall be lawful for the board of supervisors, or board of trustees, of the city, county, or city and county in which the same is required to be kept or preserved, to cause such book, document, map or record to be copied and transcribed into a new and well-bound book.

§2. Said book, document, map, or record, when so copied or transcribed, shall be carefully compared with the original thereof, and when the same shall have been so copied and compared with the original thereof, the persons who have done such comparing shall each make an affidavit which shall be incorporated into the book, document, map or record as copied, that said book, document, map or record and each and every part thereof is a true copy of the original book, document, map or record, and each and every part thereof; that the matter of record which appears upon every page of the original appears also upon the same page of the copy; and that no matter of record appears upon any page of the copy which is not to be found upon the same page of the original. Said book, document, map or record shall also be authenticated under the hand of the officer having the custody thereof, to the effect that the same is a true copy of the original book, document, map or record so damaged.

§3. Any such new book, document, map or record copied and authenticated as above provided, shall be prima facie evidence of the contents of the original book, document, map or record; and it shall bear the same name and designation as the original thereof, and certified copies of any instrument so copied into it shall have the same force and effect as certified copies of the original made from the original book.

§4. The board of supervisors or board of trustees of such city, county, or city and county, may make such provision for the payment for copying and transcribing the books, documents, maps and records under this act, out of the city, county, or city and county treasury, as to them may seem reasonable, not exceeding the amount now authorized to be received for copying and recording the originals thereof, and the same shall be a charge against the city, county, or city and county.

§5. This act shall take effect immediately.

TITLE 67.
BUTTE COUNTY.

ACT 445.

Protection of agriculture in. [Stats. 1873-74, p. 310.]
Amended 1875-76, p. 314. Superseded by 1897, p. 198.
Citations. Cal. 64/114.
This act provided against the trespassing of animals.

ACT 446.

Concerning salary of county assessor of. [Stats. 1871-72, p. 270.]
Repealed by County Government Act, 1897, p. 523, § 171.

ACT 447.

Relating to salary of treasurer and auditor of. [Stats. 1871-72, p. 709.]
Repealed by County Government Act, 1897, p. 523, § 171.

ACT 448.

Defining a lawful and partition fence in. [Stats. 1871-72, p. 700.]

ACT 449.

To prevent hunting of game within certain private grounds in. [Stats. 1871-72, p. 477.]

ACT 450.

Providing for the payment of fees for witnesses and jurors. [Stats. 1871-72, p. 233.]

Amended 1878-74, p. 508. Repealed by fee bill, 1895, p. 278, fixing jurors' and witnesses' fees.

ACT 451.

To regulate fees of justices in. [Stats. 1877-78, p. 683.]
Repealed by the fee bill of 1895, p. 267.

ACT 452.

To provide for the appointment of two additional notaries public for Butte county. [Stats. 1871-72, p. 36.]
Superseded by Political Code, § 791.

ACT 453.

Salaries and compensation of officers. [Stats. 1873-74, p. 733.]
Amended 1875-76, pp. 753, 906; 1877-78, p. 248. Superseded by the County Government Act: *Lynch v. Butte County*, 102 Cal. 448.

ACT 454.

Authorizing transcribing records in. [Stats. 1859, p. 119.]

ACT 455.

Authorizing and empowering the recorder of Butte county to make copies of certain records. [Stats. 1858, p. 108.]

ACT 456.

Concerning roads in. [Stats. 1871-72, p. 322.]

Amended 1871-72, p. 693. Repealed 1883, p. 5, c. X, § 2.

ACT 457.

Roads in. [Stats. 1873-74, p. 503.]

Superseded by 1883-85, c. X, § 2, and the County Government Act, 1897, p. 452.

Citations. Cal. 81/125.

ACT 458.

Roads and highways in. [Stats. 1875-76, p. 752.]

Amended 1877-78, p. 18.

"Repealed by 1883, p. 5, c. X, § 2; also by Political Code, § 2652, as amended 1891, p. 478, and County Government Act, 1897, p. 452."—Code Commissioners' Note.

ACT 459.

Roads and highways in. [Stats. 1877-78, p. 402.]

Repealed 1883, p. 5, c. X, § 2.

ACT 460.

Sheriff to collect licenses, and fixing salary therefor. [Stats. 1877-78, p. 287.]

Repealed by County Government Act, 1897, p. 478, § 55.

ACT 461.

Sheriff, act concerning, and fixing his compensation. [Stats. 1877-78, p. 567.]

ACT 462.

Superintendent of schools, fixing salary of. [Stats. 1873-74, p. 170.]

Repealed by County Government Act, 1897, p. 528, § 171.

ACT 463.

Treasurer of, to transfer certain funds. [Stats. 1875-76, p. 355.]

Superseded by 1897, subd. 18, § 25, p. 463.

This act authorized the transfer of swamp land funds to the general fund.

ACT 464.

Los Angeles, Sutter, and Butte counties, treasuries of, better protection of. [Stats. 1875-76, p. 365.]

Supplemented and amended 1875-76, p. 687, exempting Sutter County.

Superseded by County Government Act, 1897, p. 483, § 115.

This act provided for the examination and counting of the funds.

TITLE 68.**BUTTER.****ACT 467.**

An act requiring the marking of packages of butter containing less than six pounds and more than one-half pound so as to advise the pur-

chaser or others as to the weight of butter contained in such package. [Approved March 20, 1905. Stats. 1905, p. 316.]

Declared unconstitutional in 149 Cal. 104.

Citations. Cal. 149/105.

ACT 468.

An act to prevent deception in the sale of renovated butter and to license manufacturers and dealers in the same.

[Approved March 20, 1905. Stats. 1905, p. 468.]

See, also, Penal Code, § 888a, and the act of 1907, p. 265.

§ 1. No person or persons, firms or corporations, by themselves or their agents or employees, shall sell, offer for sale or expose for sale or have in his or their possession for sale any renovated butter unless the same shall have printed upon each and every package, roll, print, square, or any container of such renovated butter the words "renovated butter" in letters not less than one-half inch in height, or who shall not have secured from the state dairy bureau, now existing under the laws of this state, a license as provided hereinafter.

§ 2. The term renovated butter as used in this act is hereby defined to mean and include butter that has been reduced to a liquid state by melting, and drawing of such liquid or butter oil and churning or otherwise manipulating it in connection with milk or any product thereof.

§ 3. Any person or persons, firms or corporations, desiring to manufacture or deal in renovated butter shall make application to the state dairy bureau for a license and upon payment of a license fee of the amount mentioned herein, to the state dairy bureau, said bureau shall issue to the applicant a license. All such licenses shall expire December 31st of each year and may be issued in periods of one year or six months, upon payment of a proportionate part of the license fee. Manufacturers of renovated butter within this state shall pay an annual license fee of one thousand dollars; wholesale dealers shall pay an annual license fee of four hundred dollars; retail dealers shall pay an annual license fee of fifty dollars; hotels, restaurants, boarding-houses and all other places where meals are served and payment is received therefor, either immediately or by the day, week or month, and which use or furnish renovated butter in connection with said meals, shall pay an annual license fee of ten dollars. The term wholesale dealers as used herein includes all persons, firms or corporations, who shall sell renovated butter in quantities of ten pounds or more. The term retail dealers includes all persons who sell in quantities of less than ten pounds. All licenses while in force shall be conspicuously displayed in the place of business of the party or parties to whom they have been issued. The state dairy bureau shall require all persons holding a manufacturer's or wholesaler's license, as provided in this act, to keep a record in a form separate from all other business in which every sale of renovated butter shall be recorded, giving the quantity sold, the name and location of the buyer

and the place to which it was shipped. Such record shall be accessible at all times to duly authorized representatives of the state dairy bureau.

§4. All license fees paid to the state dairy bureau under this act shall be paid by said bureau into the state treasury, the same to be added to the appropriation made for the same fiscal year for the bureau and its expenditure shall be at the disposal of said bureau for its use.

§5. Whoever shall violate any of the provisions or sections of this act shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof, be punished for the first offense by a fine of not less than twenty dollars nor more than one hundred dollars; or by imprisonment in the county jail for not less than ten days and not exceeding thirty days; and for each subsequent offense by a fine of not less than fifty dollars nor more than two hundred dollars, or by imprisonment in the county jail for not less than twenty days nor more than one hundred days, or by both such fine and imprisonment, at the discretion of the court.

§6. It shall be the duty of the district attorney of each and every county in this state, upon application, to attend to the prosecution in the name of the people of any action brought for the violation of any of the provisions of this act within his district. One-half of all the fines imposed for the violation of any of the provisions of this act shall be paid to the county in which the fine is imposed. The other one-half shall be paid to the state dairy bureau, and by said bureau to the state treasurer, and the same shall become a part of the appropriation made by law for the use of said state dairy bureau.

§7. An act which became a law under constitutional provision without the governor's approval, February 23, 1899, entitled "An act to prevent deception in the sale of process or renovated butter" and all other acts or parts of acts inconsistent with this act are hereby repealed.

§8. This act shall take effect thirty days after its passage.

ACT 469.

To prevent the sale of short-weight rolls of butter. [Stats. 1893, p. 151.]

This act is in the Penal Code, Appendix, p. 755.

ACT 470.

To prevent deception in the sale of process or renovated butter. [Stats. 1899, p. 25.]

Repealed 1905, p. 470. See ante, Act 468.

Re-enacted and codified by Penal Code, § 883a. See Penal Code, § 883a.

ACT 471.

To prevent deception in the manufacture and sale of butter and cheese, to secure its enforcement and to appropriate money therefor. [Stats. 1897, p. 65.]

This act is in full in the Penal Code, Appendix, p. 756.

See Stats. 1899, p. 25; 1899, p. 171; 1907, p. 265.

TITLE 69.
CALAVERAS COUNTY.

ACT 476.

Agriculture, protection of. [Stats. 1873-74, p. 579.]
Supplemented, 1875-76, p. 901. Repealed 1897, p. 198.

ACT 477.

Providing for redemption of bonds of. [Stats. 1871-72, p. 716.]

ACT 478.

Constables of, regulating fees of. [Stats. 1877-78, p. 592.]
Repealed by fee bill of 1895, p. 267.

ACT 479.

Supervisors and district attorney, offices of. [Stats. 1875-76, p. 141.]
Repealed by County Government Act, 1897, p. 452.

ACT 480.

Regulating fees and salaries in. [Stats. 1873-74, p. 13.]
Supplementing act of March 4, 1870. Repealed by County Government Act,
1897, p. 547, § 188.

ACT 481.

Supplementing act to regulate fees and salaries and define duties of
certain officers. [Stats. 1871-72, p. 177.]
Superseded by the County Government Act, 1897, p. 452.

ACT 482.

Regulating certain township offices in. [Stats. 1875-76, p. 78.]
Superseded by Code of Civil Procedure, § 103, and County Government Act,
1897, p. 474, § 56.
This act provides for justices and constables.

ACT 483.

Mining claims, recording in. [Stats. 1875-76, p. 853.]
Citations. Cal. 142/411; 149/607.

ACT 484.

Enforcing collection of poll tax in. [Stats. 1873-74, p. 494.]
Amended 1877, p. 85. Superseded by Political Code, §§ 8839, 8840, and
subd. 5, § 25, County Government Act, 1897, p. 458.

ACT 485.

Providing for location, construction, and maintenance of public roads.
[Stats. 1871-72, p. 160.]
Repealed 1878-74, p. 858.

ACT 486.

Repealing special road laws and applying the provisions of the Political Code relating to roads and highways. [Stats. 1873-74, p. 358.]

ACT 487.

Road poll taxes in, collection of. [Stats. 1875-76, p. 354.]

Repealed by Political Code, § 2652, as amended 1891, p. 478.

ACT 488.

Superintendent of public schools, salary of. [Stats. 1877-78, p. 204.]

"Never went into effect. (Peachy v. Calaveras County, 59 Cal. 548.) Repealed by County Government Act, 1897, p. 547, § 188."—Code Commissioners' Note.

ACT 489.

Treasurers of, bonds of. [Stats. 1875-76, p. 17.]

Repealed by County Government Act, 1897, p. 475, § 66.

TITLE 70.**CALIFORNIA AND OREGON RAILROAD COMPANY.****ACT 494.**

Giving effect to the act of Congress relating to the California and Oregon Railroad Company. [Stats. 1867-68, p. 655.]

TITLE 71.**CALIFORNIA PACIFIC RAILROAD COMPANY.****ACT 499.**

Granting certain rights and privileges to California Pacific Railroad Company. [Stats. 1867-68, p. 671.]

TITLE 72.**CALIFORNIA POLYTECHNIC SCHOOL.****ACT 504.**

An act to establish the California polytechnic school in the county of San Luis Obispo, and making an appropriation therefor.

[Approved March 8, 1901. Stats. 1901, p. 115.]

§ 1. There is hereby established in the county of San Luis Obispo, at or near the city of San Luis Obispo, a school to be known as the California polytechnic school. The purpose of this school is to furnish to young people of both sexes mental and manual training in the arts and sciences, including agriculture, mechanics, engineering, business methods, domestic economy, and such other branches as will fit the students for the nonprofessional walks of life. This act shall be liberally construed, to the end that the school established hereby may at all times contribute to the industrial welfare of the state of California.

§ 2. Within thirty days after this act goes into effect the governor shall appoint five persons, who, with the governor, and superintendent of public instruction, shall constitute the board of trustees of said school.

§ 3. The said trustees, as provided for in section 2 of this act, are hereby appointed and created trustees of said California polytechnic school, with full power and authority to select a site for the permanent location of said school. Said trustees shall, within ninety days after the passage of this act, examine the different sites offered by the people of San Luis Obispo county for the location of said school; and the site selected by them shall be and remain the permanent site for said school. But no money shall be expended for or on said site, until a deed in fee simple has been made for land so selected to the state of California.

§ 4. The term of office of the trustees shall be four years, except that, in appointing the first board of trustees, the governor shall appoint two members for one year, one for two years, one for three years, and one for four years. They shall be governed and regulated by the laws governing and regulating the normal schools of this state; in so far as the same are applicable to an institution of this kind.

§ 5. The sum of fifty thousand dollars is hereby appropriated out of any moneys belonging to the state not otherwise appropriated, for the purchase of a site, the construction and furnishing of the necessary buildings, and the maintenance of said school.

§ 6. The controller of the state is hereby authorized to draw warrants from time to time, as the work shall progress, in favor of said board of trustees, upon their requisition for the same, and the state treasurer is directed to pay the same.

§ 7. The moneys hereby appropriated shall be expended under the direction of the said board of trustees.

§ 8. This act shall take effect and be in force from and after January first, nineteen hundred and two.

TITLE 73.

CALIFORNIA REDWOOD PARK.

ACT 509.

Providing for the creation and management of the California Redwood Park, making an appropriation therefor, and creating a board of five commissioners, with power to make purchases, and to manage said California Redwood Park. [Approved March 16, 1901. Stats. 1901, p. 517.]

ACT 510.

To provide for the preservation, improvement and maintenance of the "California Redwood Park" in Santa Cruz county, and making an appropriation therefor. [Approved March 25, 1903. Stats. 1903, p. 424.]

TITLE 74.

CALIFORNIA STATE TRADES AND TRAINING SCHOOL.

ACT 513.

An act to authorize the establishment of the California State Trades and Training School for dependent orphans, half-orphans, abandoned children and children committed by court and placed under guardianship of the board of trustees, the appointment of a board of trustees, the purchase of a site, the preparation of plans and specifications for grounds and buildings, and to make the necessary appropriation therefor.

[Approved April 14, 1909. Stats. 1909, p. 887.]

California State Trades and Training School.

§ 1. There is hereby established in this state a school to be known as the California State Trades and Training School. The purpose of this school is to furnish to the dependent orphans, half-orphans, abandoned children and children ordered committed by the court, of both sexes, mental and manual training, in the arts, sciences and trades, including agriculture, mechanics, engineering, business methods, domestic economy and such other branches as will fit the students for the different occupations of life.

Location of.

§ 2. The California State Trades and Training School shall be located at such a place as may be selected by the governor, attorney general, secretary of state, one member of the senate and one member of the assembly appointed by the governor, who are hereby named as a commission to select a proper site for the aforesaid school, the same to be as near as possible centrally located in the state, with a view to making it the most useful, convenient and economical in its conduct.

Appointment of trustees.

§ 3. Within thirty days after this act goes into effect the governor shall appoint four persons who, in connection with the secretary of the state board of examiners, shall constitute a board of trustees of said school.

Term of office.

§ 4. The term of office of the trustees shall be four years, except that in the appointment of the four persons mentioned in section 3, the governor, in the first appointment of trustees shall appoint two for a term of two years and two for four years, and the acting secretary of the state board of examiners shall constitute the other member of said board who will act during his term of office.

Appropriation.

§ 5. The sum of \$125,000 is hereby appropriated out of any moneys belonging to the state, not otherwise appropriated, for the purchase of a site and the preparation of the necessary plans and specifications for

grounds and buildings; provided, that if any or all of the money is not expended as provided above then it shall immediately become available for the purchase of material and employment of labor for erection of the buildings needed for the school.

Who eligible to admission.

§ 6. The children who are eligible for admission to the California State Trades and Training School must be dependent orphans, abandoned children and half-orphans whose surviving parent is unable to support such children, and such other children as may be ordered committed by court and placed under guardianship of the board of trustees of the California State Trades and Training School who have been taken from parents for their protection and education.

Conditions of admission.

§ 7. Children admitted to the California State Trades and Training School must be at least fourteen years of age and not over eighteen years, and must be of sound mind, free from contagious or other diseases that would unfit them for admission, and must be acceptable to the board of trustees in other ways, and any such children on arriving at the age of eighteen years shall be discharged and the trustees of said school be relieved from further guardianship.

Control of children.

§ 8. All children admitted either from orphan homes, juvenile or other courts, or any other source, must first be placed under guardianship of the board of trustees of the California State Trades and Training School by a competent order of court, and any and all other control of such child be absolutely relinquished to such board of trustees, who will have power to make any disposition of such child as may be deemed best for its future welfare.

Estates of children.

§ 9. Any estate, moneys or other property that may belong to any child in the school shall be held in trust for such inmate, and upon approval of court may be invested for his benefit, and if of the value of over five hundred dollars such amount in excess of said five hundred dollars may be used by the board of trustees to pay the expense of support of such child to an amount not exceeding fifteen dollars per month while in the said school.

Education.

§ 10. The system of education shall be such as not to conflict with that provided for the public schools of the state and such other branches as may be deemed advisable by the board of trustees.

Expenses of trustees.

§ 11. The board of trustees shall receive their necessary traveling expenses while in the discharge of their official duties incidental to the management of the school.

Expenses of school.

§ 12. The expenditures of all moneys necessary for the expense of purchase, management and control of the above-mentioned school shall be paid out of the funds provided by law and in the same manner as other state institutions.

Construction of statute. Object of statute.

§ 13. This statute is to be construed liberally by the board of trustees and the courts of the state in order that the greatest good may be accomplished. Satisfactory proof of the needs of all children for state support must be furnished the board of trustees before their admission and at any time during their presence at the school when deemed necessary by the board of trustees. Only children of bona fide citizens and residents of the state, who were such prior to their death, are to be admitted.

The principal object of this statute and the establishment of the California State Trades and Training School hereunder, is to provide education and training for such dependent children who have been cared for in the different orphan homes in this state and by county boards of supervisors, and who no longer are entitled to draw state aid because of the age limit of fourteen years, and for children ordered committed by court, and in this way assist them until they are eighteen years of age by giving them a practical training and education in order that they may be self-supporting.

Rules for management.

§ 14. The board of trustees are hereunder given authority to adopt such rules and regulations for the management of the institution as may seem best when not in conflict with the direction and approval of the state board of examiners.

TITLE 75.**CALIFORNIA STATUTES, INDEX TO.****ACT 515.**

An act authorizing the superintendent of state printing to have prepared and printed an index of all the laws of California, 1850-1907 inclusive. [Approved March 18, 1907. Stats. 1907, p. 572.]

This act authorized the compiling, printing and distribution of a complete index to the California Statutes.

For the former act, see Stats. 1893, p. 150.

TITLE 76.**CALIFORNIA VOLUNTEERS.****ACT 520.**

To provide for the revision of the records of the California volunteers, to authorize the adjutant-general to employ additional clerks for that purpose, and to authorize the superintendent of state printing to print, bind and issue the same. [Stats. 1889, p. 228.]

TITLE 77.**CANAL CORPORATIONS.****ACT 525.**

Authorizing incorporation of canal companies, and the construction of canals. [Stats. 1862, p. 540.]

Amended 1865-66, pp. 53, 604, 786; 1867-68, p. 184.

Repealed: See § 288, Civil Code.

ACT 526.

Authorizing incorporation of canal companies, and providing for the construction of ditches and canals. [Stats. 1869-70, p. 660.]

"Supplemented 1871-72, p. 732, but repealed, except as to pre-existing corporations, by § 288, Civ. Code."—Code Commissioners' Note.

TITLE 78.**CANALS.****ACT 531.**

To develop agricultural interests and aid the construction of a canal in Colusa, Solano, and Yolo counties. [Stats. 1865-66, p. 451.]

TITLE 79.**CAPITOL.****ACT 536.**

To prohibit the sale of intoxicating liquors in the state capitol. [Stats. 1880, p. 80.]

Compare § 172, Penal Code.

ACT 537.

Fixing the salary of the janitor of the state capitol building, defining his duties and making an appropriation therefor. [Stats. 1893, p. 46.]

ACT 538.

Authorizing the construction and maintenance of drinking fountains in the state capitol grounds. [Stats. 1901, p. 298.]

TITLE 80.**CEMETERIES.****ACT 543.**

To protect the bodies of deceased persons and public graveyards. [Stats. 1854, p. 20.]

Superseded by Penal Code, §§ 290-297.

ACT 544.

Providing for the removal of human remains from cemeteries in cities having a population of more than five thousand and not exceeding one hundred thousand.

[Approved March 23, 1893. Stats. 1893, p. 234. Amended 1895, p. 157.]

§ 1. The city council of any city in this state having a population of more than fifteen hundred and not exceeding one hundred thousand, may, by ordinance duly passed, and under such lawful rules and regulations which it may adopt, provide for the exhuming, taking up, and removal from cemeteries within the boundary lines of such city, or from cemeteries owned and controlled by such city that may have been located without its boundaries (and in which such cemeteries no interments of human remains have been made for a period of not less than two years), of all the human remains interred in such cemeteries. [Amendment approved March 26, 1895. Stats. 1895, p. 157.]

ACT 545.

An act to protect public health from infection caused by exhumation and removal of the remains of deceased persons.

[Approved April 1, 1878. Stats. 1877-78, p. 1050. Amended 1889, p. 139.]

Disinterring of bodies unlawful without permit.

§ 1. It shall be unlawful to disinter or exhume from a grave, vault, or other burial place, the body or remains of any deceased person, unless the person or persons so doing shall first obtain, from the board of health, health officer, mayor, or other head of the municipal government of the city, town, or city and county where the same are deposited, a permit for said purpose. Nor shall such body or remains disinterred, exhumed, or taken from any grave, vault, or other place of burial or deposit, be removed or transported in or through the streets or highways of any city, town, or city and county, unless the person or persons removing or transporting such body or remains shall first obtain, from the board of health or health officer (if such board or officer there be), and from the mayor or other head of the municipal government of the city or town, or city and county, a permit, in writing, so to remove or transport such body or remains in and through such streets and highways.

Permits granted upon what.

§ 2. Permits to disinter or exhume the bodies or remains of deceased persons, as in the last section, may be granted, provided the person applying therefor shall produce a certificate from the coroner, the physician who attended such deceased person, or other physician in good standing cognizant of the facts, which certificate shall state the cause of death or disease of which the person died, and also the age and sex of such deceased; and provided further, that the body or remains of deceased shall be inclosed in a metallic case or coffin, sealed in such manner as to prevent, as far as practicable, any noxious or offensive odor or effluvia escaping therefrom, and that such case or coffin contains the body or remains of but one person, except where infant children of the same parent or parents, or parent and children, are contained in such case or coffin. And the permit shall contain the above conditions and the words: "Permit to remove and transport the body of —, age —, sex —," and the name, age, and sex shall be written therein. The officer of the municipal government of the city or town, or city and

county, granting such permit, shall require to be paid for each permit the sum of ten dollars, to be kept as a separate fund by the treasurer, and which shall be used in defraying expenses of and in respect to such permits, and for the inspection of the metallic cases, coffins, and inclosing boxes herein required; and on account of such moneys shall be embraced in the accounts and statements of the treasurer having the custody thereof.

Misdemeanor.

§ 3. Any person or persons who shall disinter, exhume, or remove, or cause to be disinterred, exhumed, or removed, from a grave, vault, or other receptacle or burial place, the body or remains of a deceased person, without a permit therefor, shall be guilty of a misdemeanor and be punished by a fine not less than fifty nor more than five hundred dollars, or by imprisonment in the county jail for not less than thirty days nor more than six months, or by both such fine and imprisonment. Nor shall it be lawful to receive such body, bones, or remains on any vehicle, car, barge, boat, ship, steamship, steamboat, or vessel for transportation in or from this state, unless the permit to transport the same is first received, and is retained in evidence by the owner, driver, agent, superintendent, or master of the vehicle, car, or vessel.

Transportation of bodies exhumed without permit—Misdemeanor.

§ 4. Any person or persons who shall move or transport, or cause to be moved or transported, on or through the streets or highways of any city or town, or city and county, of this state, the body or remains of a deceased person, which shall have been disinterred or exhumed without a permit, as described in section 2 of this act, shall be guilty of a misdemeanor, and be punishable as provided in section 3 of this act.

Reward for information.

§ 5. Any person who shall give information to secure the conviction of any person or persons for the violation of the provisions of this act shall be entitled to receive the sum of twenty-five dollars, to be paid from the fund collected from fines imposed and accruing under this act.

Removal of remains of deceased persons.

§ 6. Nothing in this act contained shall be taken to apply to the removal of the remains of deceased persons from one place of interment to another cemetery or place of interment within this state; provided, that no permit shall be issued for the disinterment or removal of any body, unless such body has been buried for one year or more, without the written consent of the mayor, chairman of the board of supervisors, or city council of any municipality of the state. [Amendment approved March 13, 1889. Stats. 1889, p. 130. In effect immediately.]

§ 7. This act shall take effect and be in force from the thirtieth day after its passage and approval.

ACT 546.

An act to provide for public cemetery districts.

[Approved March 6, 1909. Stats. 1909, p. 156.]

§1. Whenever a board of county supervisors shall receive the petition of a majority of the electors enumerated upon the great register as residing within a district in such county, definitely described in such petition, requesting that the said district be organized as a public cemetery district, they shall organize such public cemetery district as provided in this act.

§2. Such public cemetery district shall be managed by three trustees, appointed by the board of supervisors from the electors residing therein; but if a majority of the resident electors shall, in their petition, designate the names of the trustees whom they shall desire to be appointed, the board of supervisors shall appoint the persons so named. The trustees shall hold for four years, and their successors be appointed in like manner.

§3. Such cemetery trustees shall maintain a cemetery for the use of all inhabitants of the district, and for that purpose shall be capable of holding title to property in trust for the district, taking property by grant, gift, devise or any other method, and doing all acts necessary or proper for managing the affairs of the district, including the selling or leasing of burial lots.

§4. The said cemetery trustees may annually certify to the county board of supervisors the amount of money necessary to be raised by taxation for maintaining the cemetery of the district, and the board of county supervisors shall thereupon include in the annual tax levy a tax upon all the property within such cemetery district, sufficient to raise the amount demanded by the trustees, but not exceeding two mills on each dollar of assessed valuation within the district.

§5. The tax so collected, together with all other moneys received by the trustees shall be paid into the county treasury, and constitute a separate fund to be expended solely for the purposes of the cemetery district upon warrants signed by not less than two of the cemetery trustees.

§6. The trustees shall as soon after the first day of July in each year as is practicable, file with the county board of supervisors a report, setting forth all their doings during the preceding year, and containing an itemized account of all their receipts and disbursements up to and including the thirtieth day of June, together with proper vouchers therefor.

§7. The trustees shall make proper rules and regulations for the management of the cemeteries under their control, and all laws now in existence relating to cemeteries, and not inconsistent with this act shall apply to the cemeteries provided for in this act.

TITLE 81.
CEMETERY CORPORATIONS.

ACT 549.

Authorizing incorporation of rural cemetery associations. [Stats. 1859, p. 281.]

Amended 1862-64, p. 12; 1891, p. 264; 1899, p. 36.

Repealed: See § 288, Civil Code.

Citations. Cal. 115/873; 140/282; 152/468, 476.

ACT 550.

To provide the manner of execution of deeds by cemetery corporations. [Stats. 1895, p. 75.]

This act appears in full in Civil Code, Appendix, p. 807.

TITLE 82.
CENSUS.

ACT 555.

An act to authorize any city, or city and county of this state to take its census.

[Approved February 25, 1897. Stats. 1897, p. 28.]

Citation. Cal. 128/85.

§ 1. The council, or other legislative body of any city in this state, and the board of supervisors, or other legislative body of any city and county of this state, is hereby authorized, whenever said council, board of supervisors, or other legislative body, may deem it necessary, between the years of taking the federal census, to take the census of such city, or city and county, in the manner prescribed by section 2 of this act.

§ 2. Said council, board of supervisors, or other legislative body of any city, or city and county of this state electing to take a census, as in this act provided for, shall pass a resolution of intention declaring its intention to cause such census to be taken by one or more suitable persons appointed therefor by such council, board of supervisors, or other legislative body, at the expense of said city or cities desiring such census taken, and such census shall, by such persons so appointed, be taken of all the inhabitants of such city, or city and county, and in said census the full name of each person shall be plainly written and the names alphabetically arranged and regularly numbered in one complete series, and when completed shall be verified before any officer authorized to administer oaths, and be filed with the clerk of such city, or city and county.

§ 3. A certified copy of such census shall be prepared by said clerk after being so filed, and shall be filed by him with the secretary of state for this state, and thereupon the same shall be known and be the official state census of said city, or city and county.

§ 4. This act shall take effect and be in force from and after its passage.

Taking of census: See Political Code, § 4055

TITLE 83.

CENTRAL PACIFIC RAILROAD COMPANY.

ACT 560.

Authorizing relocation of route of. [Stats. 1863, p. 320.]

ACT 561.

To aid construction of, and to secure the use of the same to this state for military and other purposes. [Stats. 1863-64, p. 344.]

Citations. Cal. 66/39; 70/176.

ACT 562.

To aid in carrying out the provisions of the Pacific railroad and telegraph act of Congress. [Stats. 1863-64, p. 471.]

This act granted certain privileges to the Central Pacific Railroad Company.

Citations. Cal. 71/86.

ACT 563.

For relief of. [Stats. 1871-72, p. 432.]

This act validated the certificate of incorporation of the San Joaquin Valley Railroad, which consolidated with other railroads under the name of the Central Pacific Railroad.

TITLE 84.

CHAMBERS OF COMMERCE.

ACT 568.

To provide for the formation of chambers of commerce, boards of trade, mechanics' institutes, and other kindred protective associations. [Stats. 1865-66, 469.]

Amended 1867-68, p. 5; 1885, p. 76.

Codified by §§ 591-592a, Civil Code.

TITLE 85.

CHARITIES AND CORRECTIONS.

ACT 573.

An act to create a state board of charities and corrections, prescribing its duties and powers, and appropriating money therefor.

[Approved March 25, 1903. Stats. 1903, p. 482.]

§ 1. A state board of charities and corrections is hereby created of six members, to be appointed by the governor, with the advice and consent of the senate, not more than three of whom shall be of the same political party. Such members shall hold office for the period of twelve years and until their successors are appointed and qualified; pro-

vided, that the members of the first board appointed under this act shall, at their first meeting, so classify themselves by lot that two of them shall go out of office at the end of four years, two at the end of eight years, and two at the end of twelve years, and an entry of such classification shall be made in the minutes of said board, and a duplicate thereof shall be filed in the office of the secretary of state. Women may be appointed members of said board, or hold any position in the appointment of said board. No person shall be appointed a member, or continue to act as such, while he is a trustee, manager, director, or other administrative officer of an institution subject to the terms of this act. Appointments to fill vacancies before the expiration of such terms, shall be made for the residue of terms in the same manner as original appointments. The governor shall be ex officio a member of said board.

§2. The members shall act without compensation, but shall be allowed their actual necessary expenses. The said board may appoint a secretary, who shall receive such salary as may be determined by said board, not to exceed twenty-four hundred (\$2400) dollars per annum. All the expenses of said board, including the salary of the secretary, shall not exceed the sum of six thousand (\$6,000) dollars in any one fiscal year, and said sum of six thousand (\$6,000) dollars is hereby appropriated annually therefor out of any moneys in the treasury not otherwise appropriated. The secretary of said board shall execute a bond in the sum of five thousand (\$5,000) dollars, and take the oath of office prescribed by the Political Code for the executive officers of this state. The board shall provide itself with an office in the city and county of San Francisco. Meetings of the board may be held at such times and in such places in the state of California as said board may deem fit. It may make such rules and orders for the regulation of its own proceedings as it may deem necessary, and may fix the number of members necessary to constitute a quorum. The failure of a member to attend three consecutive meetings of said board during any calendar year, unless excused by formal vote of the board, may be construed by the governor as a resignation of said nonattending member.

§3. The board is hereby empowered and authorized, and it shall be its duty as a whole, or by committee, or by its secretary, to investigate, examine, and make reports upon the charitable, correctional, and penal institutions of the state, including the state hospitals for the insane of the counties, cities and counties, cities and towns of the state, and such public officers as are in any way responsible for the administration of public funds used for the relief or maintenance of the poor in public institutions or of any of the inmates of said institutions. All the persons or officers in charge of or connected with such public institutions or with the administration of said funds are hereby required to furnish to the board or its committee or secretary such information and statistics as they may request or require, and allow said board, committee or secretary free access to all departments of such institutions and to all of their records. In order to secure accuracy, uniformity and completeness

in such statistics and information, the board may prescribe such forms of report and records by the state commission in lunacy regarding the state hospitals for the insane and by such other officers, boards or institutions as it may deem necessary and also such forms of registration at all public institutions referred to in this section as it may require. The state commission in lunacy on behalf of the institutions under its charge and the officers of all other institutions, and all officers, in any way responsible for public funds used for the relief of the poor or the maintenance of any inmates of said public institutions, are hereby required to follow such forms, records and registration so prescribed; provided, that the intent of this law is that so far as possible, the board shall make use of the forms of report, record and registration now obtaining in the state commission of lunacy and other state boards and institutions. All plans of new buildings or parts of buildings for any of the public institutions coming under the provisions of this act, or any additions or alterations in such buildings, shall, before their adoption by the proper officials, be submitted to the board for suggestions and criticism.

§4. The board shall have the power to issue compulsory process to compel the attendance of any witness before said board or any member thereof, and to require the production of such books or papers relating to any public institution mentioned in section 3 of this act as they may deem necessary; provided, that no witness shall be required to attend before said board out of the county in which he resides. Any member of said board shall have power, and he is hereby authorized to administer an oath to any and all witnesses coming before said board, or any member thereof, for examination, and to examine such witness or witnesses in reference to any matter relating to public institutions mentioned in section 3 of this act appertaining to the inquiry before the board, or said member. Disobedience of a subpoena issued by said board, or refusal to be sworn, or to answer, shall subject such person disobeying or refusing to a forfeiture of one hundred dollars, to be recovered in a civil action brought in a court of competent jurisdiction by said board in its name as plaintiff, the money recovered to be appropriated to the use of said board.

§5. No provision in this act contained shall in any way be construed as preventing the governor of this state from making a plenary investigation in reference to the conduct of any public institutions under the terms of any act of the legislature of this state. Furthermore, the governor may at any time order an investigation by the board, or by a committee of its members, of the management of the above-named institutions, or any thereof.

§6. Three months prior to each regular session of the legislature, the board shall make a full and complete report to the governor of all its transactions during the preceding two years, showing fully and in detail all expenses incurred and moneys paid out by it, and giving a list of all officers and agents employed, and the actual condition of all institutions under its supervision, with such suggestions as it may deem necessary

and pertinent, and with recommendations for legislative and executive action.

§ 7. The provisions of this act shall not apply to the Veterans' Home of California, located at Yountville, Napa County, nor to the Woman's Relief Corps Home at Evergreen, Santa Clara County.

§ 8. All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

§ 9. This act shall be in force and take effect from and after its passage.

TITLE 86.

CHEESE.

ACT 578.

An act defining the different grades of cheese and for branding the same, manufactured in the state of California.

[Approved March 4, 1897. Stats. 1897, p. 69.]

§ 1. Every person or persons, firm or corporation, who shall at any creamery, cheese factory, or private dairy, manufacture cheese in the state of California, shall, at the place of manufacture, brand distinctly, and durably on the bandage of each and every cheese manufactured, and upon the package or box when shipped, the grade of cheese manufactured, as follows: "California full-cream cheese," "California half-skim cheese," and "California skim cheese."

§ 2. All brands for branding the different grades of cheese shall be procured from the state dairy bureau, and said bureau is hereby directed and authorized to issue to all persons, firms, or corporations, upon application therefor, uniform brands, consecutively numbered, of the different grades specified in section 1 of this act. The state dairy bureau shall keep a record of each and every brand issued, and the name and location of the manufacturer receiving the same. No manufacturer of cheese in the state of California, other than the one to whom such brand is issued, shall use the same, and in case of a change of location, the party shall notify the bureau of such change.

§ 3. The different grades of cheese are hereby defined as follows: Such cheese only as shall have been manufactured from pure milk, and from which no portion of the butter fat has been removed by skimming or other process, and having not less than thirty per cent of butter fat, shall be branded as "California full-cream cheese"; and such cheese only as shall be made from pure milk, and having not less than fifteen per cent of butter fat, shall be branded "California half-skim cheese"; and such cheese only as shall be made from pure skim-milk shall be branded "California skim cheese"; provided, that nothing in this section shall be construed to apply to "Edam," "Brickstein," "Pineapple," "Limburger," "Swiss," or hand-made cheese, not made by the ordinary Cheddar process.

§4. No person or persons, firms or corporations, shall sell, or offer for sale, any cheese, manufactured in the state of California, not branded by an official brand and of the grade defined in section 3 of this act.

§5. Whoever shall violate any of the provisions of this act shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof, be punished for the first offense by a fine of not less than twenty-five dollars (\$25) nor more than fifty dollars (\$50), or by imprisonment in the county jail for not exceeding twenty-five days; and for each subsequent offense by a fine of not less than fifty dollars (\$50) nor more than one hundred dollars (\$100), or by imprisonment in the county jail not less than fifty days nor more than one hundred days, or by both such fine and imprisonment, at the discretion of the court.

§6. All acts or parts of acts inconsistent with this act are hereby repealed.

§7. This act shall take effect sixty days after its passage.

TITLE 87.

CHICO.

ACT 583.

Statute incorporating. [Stats. 1871-72, p. 11.]

Amended 1871-72, p. 248. Amended and supplemented 1873-74, p. 218. Further amendments and supplemental matters, 1875-76, p. 22; 1877-78, p. 456; 1887, p. 63. Superseded by incorporating, in 1895, under Municipal Government Act of 1883.

TITLE 88.

CHINESE.

ACT 588.

To prevent the further immigration of Chinese or Mongolians to this state. [Stats. 1858, p. 295.]

This act does not appear to have been passed on by the supreme court, although it is undoubtedly unconstitutional. Under any circumstances the penal portion of it is superseded by the Penal Code, § 6.

ACT 589.

To protect free white labor from competition with Chinese labor and to discourage the immigration of Chinese. [Stats. 1862, p. 462.]

This act imposed a police tax on Chinese. It was declared unconstitutional in *Lin Sing v. Washburn*, 20 Cal. 534.

ACT 590.

To prohibit the coming of Chinese into the state, whether the subjects of the Chinese empire or not, and to provide for registration and certificates of residence and determine the status of all Chinese persons now resident of this state, and fixing penalties and punishments for

violation of this act, and providing for deportation of criminals. [Stats. 1891, p. 185.]

Unconstitutional: *Ex parte Ah Cuo*, 101 Cal. 197.

ACT 591.

To prevent the importation of Chinese criminals and to prevent the establishment of coolie slavery. [Stats. 1869-70, p. 332.]

Superseded by § 174 of the Penal Code.

ACT 592.

To prevent the kidnaping and importation of Mongolian, Chinese and Japanese females for criminal or demoralizing purposes. [Stats. 1869-70, p. 330.]

Superseded by Penal Code, § 174.

Citations. Cal. 64/286.

See post, Act 2797.

ACT 593.

For the suppression of Chinese houses of ill-fame. [Stats. 1865-66, p. 641. Amended 1873-74, p. 84.]

Continued in force by Political Code, § 19; Penal Code, § 23.

The amending act of 1873-74, p. 84, is codified by § 815 of Penal Code. See Penal Code, § 815, note.

ACT 594.

To provide for the removal of Chinese outside the limits of cities and towns. [Stats. 1880, p. 22.]

Probably unconstitutional.

TITLE 89.

CITY ATTORNEY.

ACT 599.

To provide for furnishing assistants to city and city and county attorneys in every city, or city and county having a population of one hundred thousand or over, and providing for their mode of appointment and compensation. [Stats. 1891, p. 95.]

Superseded as to San Francisco by c. 2 of art. V of its charter.

TITLE 90.

CIVIL RIGHTS.

ACT 604.

Making it unlawful to refuse admission to places of amusement. [Stats. 1893, p. 220.]

Codified by §§ 53, 54 of Civil Code.

"Superseded by Civil Code, §§ 53, 54 (1905, p. 554). Constitutional. (*Greenberg v. Western Turf Assn.*, 140 Cal. 357; *Greenberg v. Western Turf Assn.*, 149 Cal. 126.)"—Code Commissioner's Note.

ACT 605.

An act to protect all citizens in their civil and legal rights. [Approved March 13, 1897. Stats. 1897, p. 137.]

Codified by §§ 51, 52, Civil Code, adopted 1905.

Citations. Cal. 119/602.

TITLE 91.**CLEAR LAKE.****ACT 607.**

Clear Lake, in Lake County, declared navigable. [Stats. 1877-78, p. 630.]

"See Political Code, § 2849, from which this lake is omitted, and this statute, apparently, thereby repealed (Cardwell v. County of Sacramento, 79 Cal. 347). Renewed by Political Code, § 2849, as amended in 1907."—Code Commissioner's Note.

TITLE 92.**CLOVERDALE.****ACT 612.**

Incorporating. [Stats. 1871-72, p. 164.]

Amended 1871-72, p. 550; 1875-76, p. 171. Superseded by incorporating under Municipal Government Act of 1888.

TITLE 93.**COAST SURVEY.****ACT 617.**

To authorize persons engaged in the U. S. coast survey to enter upon lands within the state; to protect the operations of the same from injury and molestation, and to ascertain the mode of assessing damages and to punish offenders. [Stats. 1852, p. 147.]

TITLE 94.**CODES.****ACT 622.**

To create and establish a commission for revising, systematizing, and reforming the laws of this state, and for the appointment of the members of said commission, to be known as "The commissioners for the revision and reform of the law," and to prescribe their powers and duties; and to authorize the appointment of a secretary and stenographer therefor; and to provide for the compensation and expenses of said commission, secretary, and stenographer, and to appropriate money therefor. [Approved March 28, 1895. Stats. 1895, p. 345. In effect immediately.]

Amended 1903, p. 479; 1905, p. 408; 1907, p. 294; 1909, p. 997.

TITLE 95.**COLLEGE CITY.****ACT 627.**

College City, Colusa County, prohibiting sale of intoxicating liquors within one mile of. [Stats. 1875-76, p. 691.]

TITLE 96.
COLLEGES.

ACT 632.

To provide for the incorporation of colleges. [Stats. 1850, p. 273.]
Amended 1855, p. 110; 1867-68, pp. 69, 218; 1869-70, p. 419; 1878-74, p. 85;
Supp. 1868, p. 775; 1871-72, p. 10.
Citations. Cal. 49/461.

ACT 633.

Providing for the incorporation of institutions of learning, science, and
art. [Stats. 1867-68, p. 204.]
Repealed, § 288, Civil Code.

ACT 634.

Expressing assent of the state of California to the act of Congress, ap-
proved August thirtieth, eighteen hundred and ninety, entitled "An
act to apply a portion of the proceeds of the public lands to the more
complete endowment and support of the colleges for the benefit of
agriculture and the mechanic arts established under the provisions
of an act of Congress, approved July second, eighteen hundred and
sixty-two," and to the purposes of the grants of moneys authorized
thereby, and to all the provisions thereof. [Approved March 31,
1891. Stats. 1891, p. 458.]
The object of the act sufficiently appears from the title.

TITLE 97.
COLOMA.

ACT 639.

Incorporating Coloma. [Stats. 1858, p. 207.]
Repealed 1909, p. 1001.

TITLE 98.
COLTON HALL.

ACT 640.

To provide for the appointment of a board of Colton Hall trustees, and
for the leasing of the Colton Hall property, and providing for an
appropriation for the preservation, protection, and improvement of
said property. [Approved March 25, 1903. Stats. 1903, p. 435.]

TITLE 99.
COLUSA COUNTY.

ACT 645.

Protecting agriculture and preventing trespassing of animals. [Stats.
1871-72, p. 685.]
Amended 1873-74, p. 760. Modified, if not repealed, by the stray law, 1897,
p. 198; 1901, p. 603.

ACT 646.

To develop agricultural interests and aid the construction of a canal in Colusa, Solano, and Yolo counties. [Stats. 1865-66, p. 451.]

ACT 647.

Approval of official bonds. [Stats. 1877-78, p. 77.]

Repealed 1877-78, p. 113.

ACT 648.

Fixing amount of official bonds in. [Stats. 1877-78, p. 569.]

Repealed by County Government Act, 1897, p. 475, § 66.

ACT 649.

To provide for the drainage of certain lands in the counties of Colusa and Yolo. [Stats. 1877-78, p. 1037.]

ACT 650.

Partition fences in. [Stats. 1875-76, p. 207.]

ACT 651.

Fees of office and salaries of certain officers, regulating and repealing prior acts. [Stats. 1873-74, p. 873.]

Repealed by the fee bill of 1895, p. 267, and by County Government Act, 1897, p. 452.

ACT 652.

Fees and salaries of officers of. [Stats. 1877-78, p. 36.]

Repealed as to salaries by County Government Act, 1897, p. 555, § 196, and by fee bill of 1895, p. 267, as to the fees of the officers therein named.

ACT 653.

Additional tax for judges' and district attorneys' salary fund. [Stats. 1871-72, p. 98.]

Probably rendered inoperative by the constitution, which abolished the office of county judge.

ACT 654.

Justices of the peace in. [Stats. 1877-78, p. 782.]

Repealed by fee bill of 1895, p. 272.

ACT 655.

Public roads in. [Stats. 1871-72, p. 826.]

Repealed 1883, p. 5, c. X, § 2.

Citations. App. 1/719, 720, 721.

ACT 656.

Yolo and Colusa counties, public road along boundary line between, establishing. [Stats. 1873-74, p. 213.]

ACT 657.

Establishing, maintaining and protecting public and private roads in.
[Stats. 1873-74, p. 621.]

Amended 1875-76, pp. 401, 481; 1877-78, p. 827. Repealed 1888, p. 5, c. X, § 2.

ACT 658.

Additional powers of supervisors. [Stats. 1877-78, p. 563.]
Repealed by County Government Act, 1897, p. 452.

ACT 659.

To confer certain powers on supervisors of. [Stats. 1877-78, p. 567.]
Repealed by County Government Act, 1897, p. 452.

ACT 660.

Quieting title to certain lands in. [Stats. 1873-74, p. 818.]
This act released to the United States government lands sold to actual settlers by the United States.

TITLE 100.**COLUSA, TOWN OF.****ACT 665.**

Incorporating. [Stats. 1875-76, p. 669.]
Amended 1877-78, p. 248.

ACT 666.

Issuance of bonds for road purposes. [Stats. 1877-78, p. 369.]
Amended 1880, p. 9.

COMMERCE.

See tit. "Chambers of Commerce."

TITLE 101.**COMMISSIONERS IN EQUITY.****ACT 671.**

For the appointment of commissioners in equity. [Stats. 1861, p. 183.]
Repealed by Political Code and Code of Civil Procedure.
This act provided for the appointment of commissioners in equity to take testimony in equity cases.

TITLE 102.**COMMISSIONERS OF TRANSPORTATION.****ACT 676.**

To create the office of commissioner of transportation, etc. [Stats. 1877-78, p. 969.]

Repealed 1909, p. 499.

Codified in part by §§ 869b, 869d, 869f, Penal Code: See Penal Code, §§ 869b, note, 869d, note.

The code commissioners say this act was repealed by the constitution of 1879: See *Dyer v. Placer County*, 90 Cal. 276, p. 278; *Giesecke v. San Joaquin County*, 109 Cal. 489.

**TITLE 103.
COMMON LAW.**

ACT 681.

Adopting the common law. [Stats. 1850, p. 219.]

Re-enacted in Political Code, § 4468.

Citations. Cal. 42/167; 69/337, 379, 380; 83/518; 141/121; 146/318.

**TITLE 104.
CONGRESS.**

ACT 686.

To divide the state of California into congressional districts. [Approved March 11, 1891. Stats. 1891, p. 84.]

Citations. Cal. 125/624.

This act was superseded by the following act:

ACT 687.

To divide the state into congressional districts, and provide for the election of members of the house of representatives of the United States therein. [Approved March 23, 1901. Stats. 1901, p. 548.]

Superseded by § 117 of Political Code.

**TITLE 105.
CONSPIRACY.**

ACT 692.

To limit the meaning of the word "conspiracy," and also the use of "restraining orders" and "injunctions," as applied to disputes between employers and employees in the state of California. [Approved March 20, 1903. Stats. 1903, p. 289.]

This act is set out in full in the Appendix to the Penal Code, p. 762.

ACT 693.

Making a conspiracy to commit any crime against the person of, or an attempt to kill or commit any assault upon, the President, or Vice-president of the United States, the governor of any state or territory, any United States justice or judge, or the secretary of any executive department of the United States, a felony; and providing a penalty therefor. [Approved February 28, 1903. Stats. 1903, p. 58.]

This act is set out in full in the Appendix to the Penal Code, p. 763.

**TITLE 106.
CONSTABLES.**

ACT 698.

Constables, legalizing official acts of certain. [Stats. 1873-74, p. 700.]

This act validated the acts of constables elected between the first Monday of January and the first Monday of March, 1874.

TITLE 107.
CONSTITUTION.

ACT 703.

Recommending to electors to vote for or against a convention to revise and change the constitution. [Stats. 1873-74, p. 732.]

ACT 704.

To provide for a convention to frame a new constitution for the state of California. [Approved March 30, 1878; 1877-78, p. 759.]

ACT 705.

To provide for the submission of amendments to the constitution. [Stats. 1883, p. 53.]

Repealed 1899, p. 24.

Citations. Cal. 69/488; 102/125; 126/410; 180/91.

The section in the repealing act purporting to re-enact the first section of the act of 1883 is unconstitutional: People ex rel. Attorney General v. Curry, 130 Cal. 88.

TITLE 108.
CONTRA COSTA COUNTY.

ACT 710.

Assessors of, compensation of for collection of personal property taxes. [Stats. 1875-76, p. 529.]

Superseded by the County Government Act, 1897, p. 536, § 188.

ACT 711.

Fences in. [Stats. 1858, p. 40.]

Supplemented 1861, p. 277.

ACT 712.

Fences in. [Stats. 1861, p. 277.]

Supplementing statute of 1858.

ACT 713.

Justices of the peace in, fees of. [Stats. 1877-78, p. 269.]

Repealed by fee bill of 1895, p. 272.

ACT 714.

Fees of office and compensation of officers. [Stats. 1875-76, p. 84.]

Repealed by fee bill of 1895, p. 267, as to officers therein named.

ACT 715.

Salaries and compensation of officers of. [Stats. 1875-76, p. 91.]

Repealed by County Government Act, 1897, p. 536, § 188.

ACT 716.

To provide for the appointment of three additional notaries public for. [Stats. 1871-72, p. 46.]

Superseded by Political Code. § 791.

ACT 717.

Public administrator authorized to act as coroner. [Stats. 1871-72, p. 170.]

Probably repealed by County Government Act, 1897, p. 478, § 55.

ACT 718.

Concerning bonds of public administrator. [Stats. 1871-72, p. 183.]

Superseded by County Government Act, 1897, p. 475, § 66.

ACT 719.

Roads and highways in. [Stats. 1871-72, p. 779.]

Repealed 1873-74, p. 170.

ACT 720.

To repeal all special road laws in the county of Contra Costa. [Stats. 1873-74, p. 170.]

ACT 721.

Roads and highways in. [Stats. 1875-76, p. 237.]

Amended 1877-78, p. 611. Repealed 1883, p. 5.

Citations. Cal. 67/78.

ACT 722.

Quieting title to certain salt marsh and tide lands in. [Stats. 1873-74, p. 616.]

ACT 723.

Fixing bonds of sheriff of. [Stats. 1871-72, p. 158.]

Superseded by County Government Act, 1897, p. 475, § 66.

ACT 724.

To provide for the extermination of squirrels in. [Stats. 1877-78, p. 815.]

Superseded by subd. 26, § 25, County Government Act, 1897, p. 465.

ACT 725.

School moneys, distribution of. [Stats. 1877-78, p. 182.]

Repealed by Political Code, § 1858, as amended 1893, p. 264.

TITLE 109.**CONTROLLER.****ACT 730.**

Authorizing the appointment of an additional clerk by the controller. [Stats. 1895, p. 67.]

Repealed 1899, p. 146.

ACT 731.

Creating the office of expert to the controller and prescribing his compensation. [Stats. 1899, p. 146.]

Codified by § 440, Political Code.

TITLE 110.

CONVICTS.

ACT 736.

Concerning payment of the costs and expenses of the trial of convicts for crimes committed in state prison and the payment of the costs of the trial of escaped convicts. [Stats. 1880, p. 43.]

See Act 783.

ACT 737.

To prevent the importation of convicts into this state. [Stats. 1850, p. 202.]

Superseded by Penal Code, §§ 173, 175.

ACT 738.

Providing for furnishing sheriffs and chiefs of police of certain information, description, and photographs of convicts about to be discharged by the wardens of state prisons. [Stats. 1897, p. 213. Repealed 1905, p. 532. See post, Act 739.]

ACT 739.

An act requiring the wardens of the state prisons of California to furnish the sheriffs of California and the bureaus of identification with certain information concerning convicts within thirty days after receiving said convicts, and providing for payment of the expenses incurred thereby.

[Approved March 20, 1905. Stats. 1905, p. 532. Amended 1909, p. 398.]

§ 1. The wardens of the state prisons of the state of California shall within thirty days after receiving persons convicted of crime and sentenced to serve terms in the respective prisons, send to the sheriffs of the state of California, to the legalized bureau of identification and to the chiefs of police of all regularly constituted police departments, of incorporated cities and towns within said state, photographs together with minute descriptions including marks of identification of all such persons and also a statement of the nature of the crime for which said persons are imprisoned. [Amendment approved March 18, 1909. Stats. 1909, p. 398.]

§ 2. Any expenditures incurred in carrying out the provisions of this act shall be paid for out of the appropriation made for the support of state's prisons.

§ 3. This act shall be in effect immediately and be enforced from and after its passage and repeals an act approved March 27, 1897, on pages 213, 214 of Statutes and Amendments to the Codes of California of 1897.

TITLE 111.

CO-OPERATIVE ASSOCIATIONS.

ACT 743.

Defining and providing for the organization and government of co-operative business corporations. [Stats. 1877-78, p. 883.]

Superseded by 1895, p. 221.

Codified in part by § 658a of Civil Code: See Civil Code, § 658a, note.

"The portion of the statute declaring that the by-laws may provide for the number of votes to which each stockholder shall be entitled is probably unconstitutional as being special legislation. (See *Krause v. Durbrow*, 127 Cal. 681.) The remaining portion is superseded by Civil Code, § 658a, as adopted in 1905."—Code Commissioner's Note.

ACT 744.

To provide for the incorporation, operation, and management of co-operative associations. [Stats. 1895, p. 221.]

Codified by §§ 658b-658l of Civil Code, adopted 1905.

TITLE 112.

CORONERS.

ACT 749.

Concerning the attendance of physicians and surgeons in certain cases and to provide payment for making chemical and post-mortem examinations. [Stats. 1871-72, p. 81.]

Sections 1 and 2 of this act are probably superseded by § 1512, Penal Code, if not already superseded by County Government Act, 1897, § 12. See note to § 1512, Penal Code.

This act appears in full in Penal Code, 1908, Appendix, p. 766.

ACT 750.

Concerning the payment of expenses of coroners' inquests in state's prison. [Stats. 1880, p. 43.]

It is in full in the Penal Code, Appendix, p. 768.

ACT 751.

Providing for the appointment by the coroner in counties of the first class of a physician for the purpose of performing autopsies, and fixing their compensation. [Stats. 1895, p. 52.]

In full in the Penal Code, Appendix, p. 764.

ACT 752.

To provide for furnishing assistants to the coroner of each city, or city and county having one hundred thousand or more inhabitants, and providing the mode in which such assistants shall be appointed and designated, and establishing the compensation and prescribing the duties of such assistants. [Approved March 23, 1893. Stats. 1893, p. 190.]

As to San Francisco, superseded by the charter.

In full in the Penal Code, Appendix, p. 767.

ACT 753.

Providing an official stenographic reporter to the coroners of cities, and cities and counties, having a population of one hundred thousand or

more inhabitants; providing the mode of appointment, establishing the compensation, and fixing the duties. [Stats. 1895, p. 168.]

Superseded as to San Francisco by its charter.

In full in Penal Code, Appendix, p. 765.

ACT 754.

Coroners and elisors, fees of. [Stats. 1873-74, p. 794.]

Superseded by County Government Act, 1897, p. 481, § 105.

TITLE 113.

CORPORATIONS.

ACT 757.

An act relating to revenue and taxation, providing for a license tax upon corporations, and making an appropriation for the purpose of carrying out the objects of this act.

[Approved March 20, 1905. Stats. 1905, p. 493.]

Amended 1906, p. 22; 1907, pp. 664, 745; 1909, pp. 454, 458.

See, also, Ukiah Guarantee Co. v. Curry, 148 Cal. 256.

Citations. Cal. 148/256, 257; 154/388.

Corporation not to do business without state license.

§ 1. No corporation heretofore or hereafter incorporated under the laws of this state, or of any other state, shall do or attempt to do business by virtue of its charter or certificate of incorporation, in this state, without a state license therefor. [Amendment approved June 13, 1906. Stats. 1906, p. 22. In effect immediately.]

License, of whom procured. Amount of license tax. When payable.

§ 2. It shall be the duty of every corporation, incorporated under the laws of this state, and of every foreign corporation now doing business, or which shall hereafter engage in business in this state, to procure annually from the secretary of state a license authorizing the transaction of such business in this state, and shall pay therefor a license tax as follows:

When the authorized capital stock of the corporation does not exceed ten thousand dollars (\$10,000) the tax shall be ten dollars (\$10); when the authorized capital stock exceeds ten thousand dollars (\$10,000) but does not exceed twenty thousand dollars (\$20,000) the tax shall be fifteen dollars (\$15); when the authorized capital stock exceeds twenty thousand dollars (\$20,000) but does not exceed fifty thousand dollars (\$50,000) the tax shall be twenty dollars (\$20); when the authorized capital stock exceeds fifty thousand dollars (\$50,000) but does not exceed one hundred thousand dollars (\$100,000) the tax shall be twenty-five dollars (\$25); when the authorized capital stock exceeds one hundred thousand dollars (\$100,000) but does not exceed two hundred and fifty thousand dollars (\$250,000) the tax shall be fifty dollars (\$50); when the authorized capital stock exceeds two hundred and fifty thousand dollars (\$250,000) but does not exceed five hundred thousand dollars

(\$500,000) the tax shall be seventy-five dollars (\$75); when the authorized capital stock exceeds five hundred thousand dollars (\$500,000) but does not exceed two million dollars (\$2,000,000) the tax shall be one hundred dollars (\$100); when the authorized capital stock exceeds two million dollars (\$2,000,000) but does not exceed five million dollars (\$5,000,000) the tax shall be two hundred dollars (\$200); when the authorized capital stock exceeds five million dollars (\$5,000,000) the tax shall be two hundred and fifty dollars (\$250).

Said license tax or fee shall be due and payable on the first day of July of each and every year to the secretary of state, who shall pay the same into the state treasury. If not paid on or before the hour of 4 o'clock P. M. of the first day of September next thereafter, the same shall become delinquent and there shall be added thereto, as a penalty for such delinquency, the sum of ten dollars.

The license tax or fee hereby provided authorizes the corporation to transact its business during the year or for any fractional part of such year in which such license tax or fee is paid. "Year," within the meaning of this act, means from and including the first day of July to and including the thirtieth day of June next thereafter. [Amendment approved March 19, 1909. Stats. 1909, p. 458. In effect July 1, 1909.]

New corporations, when must pay.

§ 2a. At the time of filing a certified copy of articles of incorporation of any corporation when filed on or between the first day of July and the thirtieth day of September, in any year, there shall be paid, in addition to all other fees required by law to be paid to the secretary of state, the full amount of the license tax provided to be paid in section 2 of this act; when filed on or between the first day of October and the thirty-first day of December, in any year, a sum equal to three-fourths of the license tax provided for in section 2 of this act shall be paid; when filed on or between the first day of January and the thirty-first day of March, in any year, a sum equal to one-half of such license tax provided for in section 2 of this act shall be paid, and when filed on or between the first day of April and the thirtieth day of June, in any year, a sum equal to one-fourth of such license tax provided for in section 2 of this act shall be paid. Upon receipt of such full or fractional license tax the secretary of state shall issue a license receipt for the full or for the fractional part of the then current fiscal year. [New section approved March 19, 1909. Stats. 1909, p. 459. In effect July 1, 1909.]

Secretary of state to report to governor names of delinquents. Proclamation by governor.

§ 3. The secretary of state shall, on or before the fifteenth day of September in each year, report to the governor of the state a list of all corporations which have become delinquent, as provided in section 2 of this act, and the governor shall forthwith issue his proclamation, declaring under this act that the charters of such delinquent domestic corporations will be forfeited and the right of such foreign corporations to do business in this state will be forfeited unless payment of said license

tax, together with the penalty for such delinquency, as hereinbefore provided, be made to the secretary of state on or before the hour of 4 o'clock P. M. of the thirtieth day of November next following. [Amendment approved June 13, 1906. Stats. 1906, p. 23. In effect immediately.]

Filing and publication of proclamation.

§ 4. Said proclamation shall be filed immediately in the office of the secretary of state, and said secretary of state shall immediately cause a copy of said proclamation to be published in one issue of each of two daily newspapers to be selected by the governor. [Amendment approved June 13, 1906. Stats. 1906, p. 23. In effect immediately.]

Right to do business in this state forfeited.

§ 5. At the hour of 4 o'clock P. M. of the thirtieth day of November each year the charters of all delinquent domestic corporations which have failed to pay the said license tax, together with said penalty for such delinquency, shall be forfeited to the state of California, and the right of all delinquent foreign corporations to do business in this state which have failed to pay said license tax, together with the penalty for such delinquency, shall be likewise forfeited. [Amendment approved June 13, 1906. Stats. 1906, p. 23. In effect immediately.]

Revival of corporations which failed to pay tax.

§ 6. Any corporation which failed to pay the license tax and penalty required by the act, or any amendment thereof, and of which this is amendatory, may pay all the said license taxes and penalties prescribed by section 1 of said act and the amendments thereto, and the license taxes and penalties that would have accrued if such corporation had not forfeited its charter or right to do business and any such corporation making such payment shall be relieved from the forfeiture prescribed by the act of which this act is amendatory, and all persons exercising the powers of any such corporation making such payment shall be relieved from the provisions of section 9 of said act of which this act is amendatory, and the secretary of state shall immediately after the first day of December, 1909, transmit to the county clerk of each county in this state a list of the corporations so paying pursuant to the provisions of this section, which list shall be by said county clerk filed in his office; provided, the rehabilitation of a corporation under the provisions of this act shall be without prejudice to any action, defense or right which accrued by reason of the original forfeiture; and provided, that in case the name of any corporation which has suffered the forfeiture prescribed by the act of which this act is amendatory, or a name so closely resembling the name of such corporation as will tend to deceive, has been adopted by any other corporation since the date of said forfeiture then said corporation having suffered such forfeiture shall be relieved therefrom pursuant to the terms of this section of this act only upon the adoption by said corporation seeking revival of a new name, and in such case nothing in this act contained shall be construed as permitting such corporation to be revived or carry on any business under its former name; and such corporation shall have the right to use its former name or take

such new name only upon filing an application therefor with the secretary of state and upon the issuing of a certification to such corporation by the secretary of state setting forth the right of such corporation to take such new name or use its former name as the case may be; provided, however, that the secretary of state shall not issue any certificate permitting any corporation to take or use the name of any corporation heretofore organized in this state and which has not suffered the forfeiture prescribed by the act of which this act is amendatory or to make or use a name so closely resembling the name of such corporation heretofore organized in this state, as will tend to deceive. The provisions of title 9, part 3 of the Code of Civil Procedure, in so far as they conflict with this section of this act are not applicable to corporations seeking revivor under this act. [Amendment approved March 19, 1909. Stats. 1909, p. 455. In effect immediately.]

Certain corporations exempt from license tax.

§7. All educational, religious, scientific and charitable corporations, and all corporations which are not organized for pecuniary profit, are exempt from the provisions of this act. [Amendment approved June 13, 1906. Stats. 1906, p. 24. In effect immediately.]

List of corporations which have forfeited right to do business.

§8. On or before the thirty-first day of December of each year the secretary of state shall make a list of all domestic corporations whose charters have been so forfeited and of all foreign corporations whose right to do business in this state has been so forfeited, and shall transmit a certified copy thereof to each county clerk in this state, who shall file the same in his office. [Amendment approved June 13, 1906. Stats. 1906, p. 24. In effect immediately.]

Unlawful for delinquent corporation to do business. Penalty.

§9. It shall be unlawful for any corporation, delinquent under this act, either domestic or foreign, which has not paid the license tax or fee, together with the penalty for such delinquency, as in this act prescribed, to exercise the powers of such corporation, or to transact any business in this state, after the thirtieth day of November next following the delinquency. Each and every person who exercises any of the powers of a corporation so delinquent, either domestic or foreign, which has not paid the license tax, together with the penalty for such delinquency, or who transacts any business for or in behalf of any such corporation, after the thirtieth day of November next following the delinquency, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than one hundred dollars, and not exceeding one thousand dollars, or by imprisonment in the county jail not less than fifty days nor more than five hundred days, or by both such fine and imprisonment. [Amendment approved June 13, 1906. Stats. 1906, p. 24. In effect immediately.]

Appropriation for carrying out objects of act.

§10. There is hereby appropriated out of any money in the state treasury not otherwise appropriated the sum of twenty-seven thousand

(\$27,000) dollars, for the purpose of carrying out the objects of this act, to be used by the secretary of state in the employment of a license superintendent and cashier; one permanent clerk; such other clerks from time to time as may be necessary; for the purchase of the necessary desks, furniture, stationery, books, postage, and for the necessary printing, ruling, binding and materials furnished by the state printing office, and for all other necessary incidental expenses, to be used and expended during the balance of the fifty-sixth, and during the fifty-seventh, and fifty-eighth, fiscal years, and the state controller is hereby directed to draw his warrant for any claim against said amount, the same having been approved by the state board of examiners, and the treasurer is hereby directed to pay the same.

See note at end of act.

Directors to settle affairs of corporation.

§ 10a. In all cases of forfeiture under the provisions of this act, the directors or managers in office of the affairs of any domestic corporation, whose charter may be so forfeited, or of any foreign corporation whose right to do business in this state may be so forfeited, are deemed to be trustees of the corporation and stockholders or members of the corporation whose power or right to do business is forfeited and have full power to settle the affairs of the corporation and to maintain or defend any action or proceeding then pending in behalf of or against any of said corporations, or to take such legal proceedings as may be necessary to fully settle the affairs of said corporation, and such directors or managers, as such trustees, may be sued in any of the courts of this state by any person having a claim against any of said corporations.

Provided always that no action pending against any corporation shall abate thereby, but may be prosecuted to final judgment the same may be enforced by execution with the same force and effect and in like manner as though no forfeiture had occurred; and

Provided further: That where judgment has been entered against any corporation prior to forfeiture under this act, that notwithstanding execution may be issued thereon and the property of said corporation, or which may come into the hands of any trustees for it may be levied upon seized and sold to satisfy the same with like force and effect as though such forfeiture has not occurred. [Amendment approved March 20, 1907. Stats. 1907, p. 746. In effect immediately.]

§ 10b. [Repealed March 19, 1909. Stats. 1909, p. 459. In effect July 1, 1909.]

Section 2 of the amendatory act of 1907, p. 664, is as follows:

"Sec. 2. There is hereby appropriated out of any money in the state treasury not otherwise appropriated the sum of forty thousand (\$40,000) dollars, for the purpose of carrying out the objects of this act, to be used by the secretary of state in the employment of a license superintendent and cashier; one permanent clerk; such other clerks from time to time as may be necessary; for the purchase of the necessary desks, furniture, stationery, books, postage, and for the necessary printing, ruling, binding and materials furnished by the state printing office and for all other necessary incidental expenses, to be used and expended

during the balance of the fifty-eighth, and during the fifty-ninth and sixtieth fiscal years, and the state controller is hereby directed to draw his warrant for any claim against said amount, the same having been approved by the state board of examiners, and the treasurer is hereby directed to pay the same."

ACT 758.

An act to provide for the incorporation of associations for lending money on personal property, and regulating the same, and to forbid certain loans of money, property or credit. [Approved March 21, 1905. Stats. 1905, p. 711.]

Citations. Cal. 148/263, 264.

Declared unconstitutional: In re Sohneke, 148 Cal. 262.

This act limited the rate of interest on chattel mortgages. Compare Act 1678.

ACT 759.

Concerning corporations. [Stats. 1850, p. 347.]

Amended 1851, pp. 424, 426. Repealed 1851, p. 433, c. CXVIII, § 31. Amended 1852, p. 168; 1853, pp. 87, 140, 169; 1854, pp. 162, 166; 1858, pp. 57, 264; 1859, p. 87; 1861, p. 84; 1862, pp. 17, 110, 125; 1863, pp. 34, 747, 766; 1865-66, p. 748; 1869-70, pp. 46, 402; 1871-72, p. 443; 1876, p. 730. Supplemented 1862, p. 17. Extended 1857, p. 75. Repealed: See § 288, Civil Code.

Citations. Cal. 5/187; 42/420, 423; 44/91; 50/843; 51/384; 60/310; 63/531; 115/589, 590, 591; 122/336, 137/446; 138/477.

Continued in force as to corporations created under it: See Eastman, Estate of, 60 Cal. 308.

ACT 760.

Supplemental to act of 1850, concerning corporations. [Stats. 1859, p. 93.]

Repealed: See § 288, Civil Code.

ACT 761.

Supplemental to act concerning corporations. [Stats. 1869-70, p. 364.]

Repealed by § 288, Civil Code.

This act provided for the renewal and extension of corporate existence.

ACT 762.

Relating to certificates of incorporation. [Stats. 1869-70, p. 107.]

Repealed by § 288, Civil Code.

This act enabled corporations to amend their articles.

ACT 763.

To provide for the formation of corporations for certain purposes. [Stats. 1853, p. 87.]

Amended 1855, p. 205; 1857, p. 121; 1858, p. 133; 1859, p. 93; 1863, p. 736; 1863-64, p. 149; 1869-70, pp. 132, 364; 1871-72, p. 526. Repealed: See § 288, Civil Code.

Citations. Cal. 48/508; 56/347; 64/385; 144/222.

This act provided for the formation of corporations for manufacturing, mining, mechanical, or chemical purposes, or for the purpose of engaging in any species of trade or commerce.

ACT 764.

Corporations for trading, manufacturing, mechanical, and other lawful purposes. [Stats. 1869-70, p. 822.]

Repealed: See § 288, Civil Code.

ACT 765.

To provide for the formation of plank or turnpike corporations. [Stats. 1853, p. 169.]

Amended 1854, p. 166; 1857, pp. 171, 280; 1858, pp. 145, 265.

Repealed: See § 288, Civil Code.

Citations. Cal. 51/384; 73/71.

ACT 766.

Concerning corporations, legalizing defects in incorporation. [Stats. 1863-64, p. 303.]

Citations. Cal. 56/848; 97/280.

This act validated defective certificates of incorporation.

ACT 767.

Concerning assessments of stock in corporations. [Stats. 1865-66, p. 458.]

Supplemented 1869-70, p. 239. In force only as to corporations existing before the codes, § 228, Civil Code.

Citations. Cal. 42/434; 65/197.

Superseded by §§ 331 et seq., Civil Code.

ACT 768.

Corporations to own the lots and houses in which their business is carried on. [Stats. 1875-76, p. 653.]

Superseded by Civil Code, § 360.

ACT 769.

Imposing a tax on the issue of certificates of stock in corporations. [Stats. 1877-78, p. 955.]

Repealed 1897, p. 243.

ACT 770.

Authorizing certain corporations to act as executors and in other capacities, and to provide for and regulate the administration of trusts by such corporations. [Stats. 1891, p. 490.]

Amended 1897, p. 424; 1908, p. 244; 1905, p. 332; 1907, p. 563.

This act authorized corporations to act as executors, administrators, guardians, assignees, receivers, depositaries, or trustees. It authorized a reduction of bonds by the court on deposit of funds with such corporations. It appears in full in Civil Code, Appendix, p. 300.

ACT 771.

To protect stockholders and persons dealing with corporations. [Stats. 1877-78, p. 695. Amended 1905, p. 736.]

This act punished frauds and misrepresentations by officers or agents. Codified in part by § 564, Penal Code: See Penal Code, § 564, note.

ACT 772.

Requiring corporations to pay their employees at least once a month.
[Stats. 1897, p. 231.]

Unconstitutional: *Johnson v. Goodyear M. Co.*, 127 Cal. 4. See this act in Civil Code, Appendix, p. 798.

ACT 773.

To provide for the payment of wages of mechanics and laborers employed by corporations. [Stats. 1891, p. 195.]

This act provided for the payment of wages, weekly or monthly. It is contained in Civil Code, Appendix, p. 797.

Unconstitutional: *Slocum v. Bear Valley Irr. Co.*, 122 Cal. 555.

ACT 774.

Concerning foreign corporations. [Stats. 1869-70, p. 881.]

This act provided that foreign corporations designate some person upon whom summons could be served. Compare § 406, Civil Code.

"In many respects superseded by 1871-72, 826, as amended by 1889, 111."—Code Commissioner's Note.

This act provided that foreign corporations designate some person upon whom process may be served. Compare § 616, Political Code, § 406, Civil Code, and see *Harregan v. Home L. L. Co.*, 128 Cal. 581.

ACT 775.

Foreign corporations. [Stats. 1871-72, p. 826.]

Amended 1899, p. 111.

Citations. Cal. 65/601; 74/122; 95/599; 120/162; 128/586, 587, 588, 589; 138/742, 743, 744; 145/608, 606; 146/650; 149/488, 485. App. 1/719, 721, 722, 723; 8/38.

It was codified by § 405 et seq. of the Civil Code, adopted 1905.

ACT 776.

Requiring foreign corporations to file a certified copy of their articles of incorporation in the office of the secretary of state. [Stats. 1901, p. 108.]

This act appears in full in Civil Code, Appendix, p. 807.

Codified by §§ 408, 409, 410, of the Civil Code, adopted 1905.

TITLE 114.**COSTS.****ACT 781.**

Concerning costs in criminal actions removed before trial. [Stats. 1851, p. 185.]

Not repealed by Penal Code: See *Needham v. Thresher*, 49 Cal. 392.

ACT 782.

Concerning the costs in civil actions for serving summons and subpoenas. [Stats. 1891, p. 56.]

This act provided for fees where service was made by a person other than the sheriff.

ACT 783.

Concerning the payment of costs and expenses of the trial of convicts for crimes committed in the state prison, and to pay the costs of the trial of escaped convicts, and to pay for the expenses of coroners' inquests in said prison. [Stats. 1880, p. 43.]

Citations. Cal. 180/20.

In the Penal Code, Appendix, p. 768. See ante, Act 786.

**TITLE 115.
COTENANCY.**

ACT 788.

Concerning tenants in common, joint tenants and coparceners. [Stats. 1857, p. 62.]

Citations. Cal. 45/509.

Superseded by Code of Civil Procedure, § 854.

This act permitted any or all tenants to bring or defend suits.

**TITLE 116.
COUNTERFEITING.**

ACT 793.

To prevent the counterfeiting of gold-dust and other species of gold. [Stats. 1855, p. 178.]

Superseded by Penal Code, §§ 477-479.

**TITLE 117.
COUNTIES.**

County boundaries: See "County Boundaries."

County government: See "County Government."

Particular county: See particular title.

ACT 798.

To provide for the transfer of certain moneys from one county to another when a new county has been formed and organized. [Stats. 1893, p. 235.]

Citations. Cal. 119/517.

Codified by § 8975a of Political Code.

ACT 799.

Authorizing the allowance, settlement, and payment of claims of counties against the state. [Stats. 1893, p. 109.]

This act appears in full in Political Code, Appendix. See Political Code, Appendix, tit. "State."

ACT 800.

Prescribing how judgments which may be recovered against any city and county of over one hundred thousand population shall be paid. [Stats. 1895, p. 163.]

See this act, post, Act 1747.

ACT 801.

Authorizing counties to become stockholders in railroad companies. [Stats. 1859, p. 263.]

Amended 1860, p. 208. Repealed by Constitution, art. IV, § 31.

ACT 802.

To authorize the several counties, cities and counties, cities, and towns of this state, and the officers and boards of officers thereof, to receive property by gift, bequest, and devise, and to hold, manage, and dispose of such property, and the income and increase thereof. [Approved February 10, 1881. Stats. 1881, p. 2.]

Superseded by § 4052 of the Political Code.

See Civil Code, § 1275; see Act 2838, post.

ACT 803.

An act to provide for the formation, organization, and classification of new counties, for locating the county seats, for the election and appointment of officers and for the adjustment and fulfillment of the rights and obligations arising between such new counties and other counties. [Approved March 15, 1907. Stats. 1907, p. 275. Amended 1909, p. 194.]

The title of the amendatory act of 1909 stated that it amended §§ 1, 2 and 3 of the act of 1907. The body of the amendatory act also amended § 4.

TITLE 118.**COUNTY BOUNDARIES.****ACT 807.**

To change and permanently locate the boundary line between the counties of Butte and Plumas. [Stats. 1901; p. 549.]

ACT 808.

To change and permanently locate the boundary line between the counties of Butte and Yuba. [Stats. 1897, p. 22.]

ACT 809.

To change and permanently locate the boundary line between the counties of Plumas and Lassen. [Approved February 28, 1901. Stats. 1901, p. 76.]

ACT 810.

To change and permanently locate the boundary lines between the counties of Glenn and Colusa. [Stats. 1893, p. 158.]

ACT 811.

Fresno and Tulare counties, establishing county line between. [Stats. 1873-74, p. 700.]

See post, Act 819.

ACT 812.

Supplementing act to define and establish boundary line between the counties of Inyo and Mono. [Stats. 1871-72, p. 316.]

ACT 813.

Humboldt, Mendocino, Trinity, and Klamath counties, to provide for defining boundaries between. [Stats. 1871-72, p. 766.]

Citations. Cal. 151/282, 284, 285, 287, 289.

ACT 814.

To permanently locate the boundary line between the counties of Shasta and Plumas. [Approved March 23, 1901. Stats. 1901, p. 560.]

ACT 815.

To better define the boundary line of Mariposa and Fresno counties. [Approved April 1, 1872. Stats. 1871-72, p. 891.]

Amended 1878-74, p. 100.

Citations. Cal. 142/54, 55, 56, 57, 58.

ACT 816.

Providing for the survey of the line forming a portion of the southern boundary of Siskiyou County and the northern boundary of Lassen County. [Stats. 1871-72, p. 886.]

ACT 817.

To define the northern boundary line of Napa County, adjoining Lake and Yolo counties. [Stats. 1871-72, p. 305.]

ACT 818.

To change and permanently locate the boundary lines between the counties of San Luis Obispo and Kern. [Stats. 1885, p. 139.]

ACT 819.

To establish the county line between the counties of Fresno and Tulare. [Stats. 1875-76, p. 397. Approved March 23, 1876.]

See ante, Act 811; post, Act 909.

ACT 820.

To more clearly define the boundary line between the counties of Lake and Yolo, in the state of California. [Approved April 1, 1872. Stats. 1871-72, p. 903.]

ACT 821.

To change and permanently locate the boundary line between the counties of Shasta and Lassen. [Stats. 1899, p. 98.]

ACT 822.

To establish the boundary line between the county of Humboldt and the counties of Del Norte and Siskiyou. [Approved March 23, 1901. Stats. 1901, p. 600.]

ACT 823.

An act to change, establish and permanently locate the boundary lines of the county of Kings, and a portion of the south boundary line of

the county of Fresno, and to provide for the submission of such change, establishment and location of such boundary lines, to the qualified electors of the territory to be affected by the change. [Approved March 14, 1907. Stats. 1907, p. 260.]

Citations. Cal. 152/226. App. 7/899, 404, 407.

ACT 824.

An act to change, establish and permanently locate the boundary lines of the county of Kings, and a portion of the south and east boundary lines of the county of Fresno. [Approved April 12, 1909. Stats. 1909, p. 827.]

ACT 825.

An act to definitely establish, and permanently locate, the boundary line between the county of Lake and the county of Glenn and a portion of the boundary line between the counties of Lake and Mendocino and the counties of Lake and Colusa, state of California. [Approved March 13, 1909. Stats. 1909, p. 326.]

ACT 826.

An act to definitely establish and permanently locate the eastern boundary line of Mendocino county, between Mount Hull and the southwest corner of Tehama County, and establish the western boundary of the county of Glenn between Mendocino and Glenn counties. [Approved March 8, 1907. Stats. 1907, p. 135.]

TITLE 119.

COUNTY CLERK.

ACT 827.

In relation to deputies and assistants of county clerks. [Stats. 1880, p. 5.]

Citations. Cal. 67/184; 125/191, 192, 194.

Superseded by County Government Act, 1897.

ACT 828.

In relation to deputies, assistants, and copyists of county clerks. [Stats. 1880, p. 20.]

Amended 1891, p. 5.

Citations. Cal. 125/191.

This act provided for the appointment and compensation of deputies, clerks, and assistants in counties, cities and counties of over 120,000 inhabitants.

Unconstitutional: *San Francisco v. Broderick*, 125 Cal. 188. Superseded as to San Francisco by the charter of that city.

ACT 829.

Authorizing and empowering county clerks to take and certify affidavits for United States pension claimants without demanding or receiving any fees or compensation therefor. [Stats. 1887, p. 81.]

This act appears in full in Political Code, Appendix, tit. "County Clerks." See Political Code, § 4802.

TITLE 120.
COUNTY GOVERNMENT.

ACT 834.

To establish a uniform system of county governments. [Stats. 1883, p. 299.]

Amended 1885, pp. 125, 166, 195; 1887, pp. 168, 178; 1889, p. 282; 1905, p. 424. Repealed by County Government Act, 1891, p. 295, c. CCXVI.

Citations. Cal. 64/292; 65/128, 124, 288, 289, 291, 311, 313; 86/26, 643, 644, 656; 67/117, 119; 68/55, 56, 142, 143; 69/224, 225, 610; 70/60, 460; 71/244, 246, 247, 600; 72/388, 519, 523; 73/870, 872; 74/24, 25, 259, 260, 335, 506, 578; 75/150, 151, 152, 153, 154, 180, 505; 76/2, 94, 607; 77/236, 598, 594; 78/142, 271, 303, 495, 496; 80/842, 862; 82/190, 191; 83/150, 866, 404, 511; 86/257, 258, 259; 87/164, 396, 397, 635; 88/412, 510, 531; 89/13, 16, 22, 23, 230, 528, 526; 91/434; 94/819, 604, 609; 95/330; 96/51; 97/608; 99/285, 629; 102/448; 106/422, 425; 109/188; 111/368, 371, 556, 569, 570; 112/66, 69, 71, 72; 113/167; 114/121, 122, 245, 826, 827, 830, 832, 834, 835, 421, 561, 562, 563, 564; 116/118; 117/234, 436, 620, 621, 623; 119/214, 215, 216; 120/559; 122/638; 124/88; 125/211; 126/232, 412, 623; 127/89, 224; 130/81; 131/550; 132/267, 335, 336, 446; 134/560, 561, 675; 135/518, 650; 136/550, 658; 142/588, 590, 591; 145/51, 53, 427. App. 8/504.

AMDTs. 1885.

Citations. Cal. 68/143, 145; 77/595; 94/635.

AMDTs. 1887.

Citations. Cal. 88/532; 94/608, 630; 95/475; 97/602; 100/63; 112/78.

AMDT. 1889.

Citations. Cal. 80/208; 84/73, 75, 76; 85/372; 88/532; 95/85, 331; 98/220; 103/491; 104/259; 112/73.

Superseded by later county government acts. "Various portions unconstitutional. (Miller v. Kister, 68 Cal. 142; San Luis Obispo v. Graves, 84 Cal. 71; Dougherty v. Austin, 94 Cal. 601.) Amended 1905, p. 424 (a mistake for an intended amendment of § 167 of the County Government Act of 1897. See 1897, p. 452.)"—Code Commissioners' Note.

ACT 835.

To establish a uniform system of county and township government. [Stats. 1891, p. 295.]

Amended 1893, p. 310. Repealed 1897, p. 452.

Citations. Cal. 89/525; 95/331, 472; 97/242, 248; 98/331; 99/514; 100/266, 444; 101/318, 319, 320; 102/164; 103/499, 540; 104/66, 77, 130, 678; 106/402; 107/183, 184, 237, 238, 241, 242; 109/155, 334, 495, 496, 497; 110/622, 623, 624; 112/73, 813; 114/115, 116, 122; 115/630; 116/113, 118, 114, 115; 117/234; 118/861; 120/305, 306, 443; 121/351; 122/429, 430, 482; 125/340, 341, 599; 126/622, 623, 625; 131/202, 557; 132/592; 134/560. App. 2/616.

AMDT. 1893.

Citations. Cal. 117/587; 122/296, 297, 298.

Various parts held unconstitutional: People v. Johnson, 95 Cal. 471; Welch v. Bramlet, 98 Cal. 219; Bloss v. Lewis, 109 Cal. 493; Turner v. Siskiyou County, 109 Cal. 332; Walser v. Austin, 104 Cal. 123.

ACT 836.

To establish a uniform system of county and township governments.
[Stats. 1893, p. 346.]

Amended 1895, p. 1. Repealed 1897, p. 452.

Citations. Cal. 103/394; 105/210; 110/554, 555; 112/563; 114/114, 116, 117, 118, 121, 122, 123, 240, 319, 327, 332, 420, 499, 549, 563; 115/548, 549, 550; 116/115, 621, 622; 118/804, 807, 810, 861, 862, 865; 119/120, 511, 629, 688, 689; 120/555, 556, 558, 649, 650, 651; 121/485; 122/187, 188, 139, 302, 303, 645, 646, 647; 128/150, 151; 125/193, 212, 218, 499; 120/36, 132, 622, 623, 624, 625, 626, 675; 128/246, 247, 249; 129/527; 180/478, 481; 131/888, 889, 411, 412, 413, 464, 550, 551; 132/275, 276; 133/282, 284; 134/624; 135/100, 516, 535, 586, 652; 136/378; 137/14, 161, 162, 163, 518, 519; 145/50, 51. App. 2/112; 8/246.

Unconstitutional in part: *Hale v. McGettigan*, 114 Cal. 112.

AMDT. 1895.

Citations. Cal. 111/568; 148/758.

ACT 837.

To establish a uniform system of county and township government.
[Approved April 1, 1897. Stats. 1897, p. 452.]

Amended 1901, pp. 681, 685; 1903, pp. 129, 151, 156, 160, 168, 173, 179, 200, 212, 218, 224, 227, 230, 232, 237, 239, 241, 402; 1905, 299, 301, 308, 310, 313, 318, 320, 325, 333, 335, 338, 352, 356, 358, 361, 363, 365, 366, 371, 373, 376, 383, 385, 391, 393, 394, 401, 424, 430, 435, 439, 441, 476, 477, 482, 485, 504, 507, 511, 523, 524, 544, 547, 552, 582, 670, 676, 721, 722, 723, 746; 1907, pp. 9, 93, 107.

Codified in 1907: See Political Code, §§ 4000-4325.

Citations. Cal. 117/619; 121/672; 122/303, 304; 124/343; 125/192, 193, 194, 211, 212, 213; 126/86, 87, 132, 134, 406; 127/37, 160, 161; 128/249, 332; 129/363, 527, 611, 612; 130/479, 480, 481; 132/385, 387; 133/75, 76; 134/54, 55, 70, 71, 72, 74, 75, 674; 135/514, 535, 536, 649; 136/65, 66, 68, 69, 653; 137/163, 164, 205, 206, 209; 138/60, 62; 139/463, 464, 467, 468; 141/393, 394, 395, 398, 423, 429, 480; 142/516, 538, 539, 590, 591; 143/68, 69, 172, 173, 245; 144/8, 89, 267, 268, 269, 276, 277; 145/50, 51, 52, 196, 425, 687; 146/470, 592, 595; 147/684; 148/248, 249, 250, 251, 580, 746, 758; 149/740, 742, 743, 744, 761, 785; 150/96, 456; 152/173, 174, 176, 177, 179, 722, 730; 153/168, 372, 444; 154/319. App. 1/184, 185; 709; 2/251, 616, 617, 618; 3/693, 694; 7/441, 442, 537, 538; 8/246.

AMDT. 1901.

Citations. Cal. 134/144, 149; 146/469; 147/684; 148/746, 756. App. 2/97, 102; 8/770.

AMDT. 1903.

Citations. Cal. 153/211, 212. App. 2/26.

AMDT. 1905.

Citations. App. 8/22.

"Unconstitutional: § 13, *Ex parte Anderson*, 134 Cal. 69; subd. 21 of § 25, *Van Hurlingen v. Doyle*, 134 Cal. 53; provisions as to fees of official reporters. *Pratt v. Browne*, 135 Cal. 649; subd. 14 of § 133, *Lougher v. Soto*, 129 Cal. 610; subd. 13 of § 164, as amended 1901, p. 685, *Tucker v. Barnum*, 144 Cal. 266; subd. 12½ of § 25, 1897, p. 460, *Cothran v. Cook*, 146 Cal. 470; subd. 13 of

§ 183, as amended 1901, p. 749, in violation of the constitutional provision that the legislature shall regulate the compensation of all officers 'in proportion to duties,' *Millard v. Kern County*, 147 Cal. 684; whether subd. 20 of § 25 is constitutional or unconstitutional, the board has the right to appoint a health officer, who is to be deemed an employee and not a county officer (*Valle v. Shaffer*, 1 Cal. App. 188). See, also, *McCabe v. Jeffers*, 122 Cal. 302; *McCauley v. Culbert*, 144 Cal. 276; *Tuttle v. Culbert*, 144 Cal. xvii. § 25, subd. 25, repealed by implication by Political Code, § 8366, as amended in 1901 (*Ex parte Pfirrmann*, 134 Cal. 148). Subd. 13 of § 184, as amended 1901, p. 750, is not unconstitutional (*Johnson v. Gunn*, 148 Cal. 745; Court of Appeal decision contra, 84 Pac. 870). As to subdivision and section last referred to, see, also, *Chinn v. Gunn*, 148 Cal. 755; court of appeals decision, 84 Pac. 874."—Code Commissioners' Note.

- § 1. Counties are bodies politic.
- § 2. Powers exercised by agents.
- § 3. Names of.
- §§ 4, 5. Powers.
- § 6. Contracts and acts in violation of act.
- § 7. Officers violating provisions of act.
- § 8. Money paid without authority, recovery of.
- § 9. Instructions to grand jury.
- § 10. Population of counties.
- § 11. County seats.
- § 12. Removal of county seats.
- § 13. Ordinance, submission of.
- §§ 14-19. Supervisors.
- § 20. Clerk of board.
- § 21. Records of board.
- §§ 22-24. Meetings of board.
- §§ 25-53. General powers.
- § 54. Eligibility to office.
- § 55. County officers.
- § 55½. Livestock inspector.
- § 56. Township officers.
- § 57. Notice, publication of.
- § 58. Election of officers.
- § 59. Deputies.
- § 60. Officer includes deputy.
- § 61. Residence and office hours.
- § 62. Liability of sureties.
- § 63. Oaths, who may administer.
- § 64. Absence of officers from state.
- § 65. What officers not to practice law.
- § 65. What officers not to act as notaries.
- § 66. Bonds of officers.
- § 66a. Statistics.
- §§ 67-87. Treasurers.
- § 88. Process and notice, definitions of.
- §§ 89-106. Sheriffs.
- §§ 107, 108. County clerks.
- §§ 109-118. Auditors.
- §§ 119-131. Recorders.
- §§ 132-134. District attorney.
- §§ 135-141. Surveyor.
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- § 148. Assessor.
- § 149. Tax-collector.
- § 150. School superintendent.
- §§ 151, 152. Public administrator.
- § 152½. Livestock inspectors, duties of.
- §§ 153, 154. Constables.
- § 155. Justices of the peace.
- §§ 156, 220. Salaries.
- § 157. Classification.
- §§ 158-215. Compensation of officers.
- §§ 216-225-227. Fees.
- § 226. Services performed by successor.
- § 228. County charges.
- §§ 229, 230. Costs on removal of officers.
- § 231. New counties, organization of—reduction of population.
- § 232. Repeal of inconsistent acts.
- § 233. Salaries of incumbents.
- § 234. In effect, when.

§ 1. The several counties of this state, as they now exist, and such other counties as may be hereafter organized, according to law, are bodies corporate and politic, and as such have the powers specified in this act, and such other powers as are necessarily implied.

§ 2. Their powers can only be exercised by the board of supervisors, or by agents and officers acting under their authority, or authority of law.

§ 3. The name of a county designated in the law creating it is its corporate name, and it must be designated thereby in all actions and proceedings touching its corporate rights, property, and duties.

§ 4. It has power:

1. To sue and be sued.
2. To purchase and hold land within its limits.
3. To make such contracts and purchase and hold such personal property as may be necessary to the exercise of its powers.
4. To manage and dispose of its property as the interests of its inhabitants may require.
5. To levy and collect such taxes, for purposes under its exclusive jurisdiction, as are authorized by law.

§ 5. No county shall, in any manner, give or loan its credit to or in aid of any person or corporation. An indebtedness or liability incurred contrary to this provision shall be void.

§ 6. All contracts, authorizations, allowances, payments, and liabilities to pay, made or attempted to be made in violation of this act, shall be absolutely void, and shall never be the foundation or basis of a claim against the treasury of such county. And all officers of said county, are charged with notice of the condition of the treasury of said county, and the extent of the claims against the same.

§ 7. Any officer authorizing, or aiding to authorize, or auditing, or allowing, or paying any claim or demand upon or against said treasury, or any fund thereof, in violation of any of the provisions of this act, or of the constitution of this state, shall be liable in person, and upon his official bond, to the person or persons damaged by such illegal authorization, to the extent of his or their loss by reason of the nonpayment of his or their claims.

§ 8. Whenever any board of supervisors shall, without authority of law, order any money paid as a salary, fees, or for any other purposes, and such money shall have been actually paid; or whenever any county officer has drawn any warrant or warrants in his own favor, or in favor of any other person, without being authorized by the board of supervisors, or by the law, and the same shall have been paid, the district attorney of such county is hereby empowered, and it is hereby made his imperative duty, to institute suit, in the name of the county, against such person or persons, to recover the money so paid, and twenty per cent damages for the use thereof; and no order of the board of supervisors therefor shall be necessary to maintain such suit. When the money has not been paid on such order or warrants, it is hereby made the imperative duty of the district attorney of such county, upon receiving notice thereof, to commence suit, in the name of the county, to restrain the payment of the same; and no order of the board of supervisors shall be necessary in order to maintain such suit.

§ 9. It shall be the duty of the judge of the superior court of each and every county, whenever a grand jury is impaneled, to call their attention to the provisions of the foregoing sections, and to instruct them to ascertain, by careful and diligent investigation, whether the provisions of said sections have been complied with, and to note the result of such investigation in their report.

§ 10. The population of the several counties of this state is hereby ascertained and determined to be and is as follows:

County.	Population.
1. San Francisco.....	342,782
2. Los Angeles.....	170,298
3. Alameda	130,197
4. Santa Clara.....	60,216
5. Sacramento	45,915
6. Sonoma	38,480
7. Fresno	37,862
8. San Joaquin.....	35,452
9. San Diego.....	35,090
10. San Bernardino.....	27,929
11. Humboldt	27,104
12. Solano	24,143
13. Santa Cruz.....	21,512
14. Mendocino	20,465
15. Orange	19,696

County.	Population.
16. Monterey	19,380
17. Santa Barbara	18,934
18. Tulare	18,375
19. Contra Costa	18,046
20. Riverside	17,897
21. Nevada	17,789
22. Shasta	17,318
23. Butte	17,117
24. Siskiyou	16,962
25. San Luis Obispo	16,637
26. Kern	16,480
27. Napa	16,451
28. Placer	15,786
29. Marin	15,702
30. Ventura	14,367
31. Yolo	13,618
32. San Mateo	12,094
33. Calaveras	11,200
34. Tuolumne	11,166
35. Amador	11,116
36. Tehama	10,996
37. Kings	9,871
38. Stanislaus	9,550
39. Merced	9,215
40. El Dorado	8,986
41. Yuba	8,620
42. Colusa	7,364
43. San Benito	6,633
44. Madera	6,364
45. Lake	6,007
46. Sutter	5,886
47. Glenn	5,150
48. Modoc	5,076
49. Mariposa	4,720
50. Plumas	4,657
51. Lassen	4,511
52. Trinity	4,383
53. Inyo	4,377
54. Sierra	4,017
55. Del Norte	2,408
56. Mono	2,167
57. Alpine	509

[Amendment approved March 23, 1901. Stats. 1901, p. 685. In effect 12 M. on the first Monday after the first day of January, 1903.]

§ 11. The county seats of the respective counties of this state, as now fixed by law, are hereby recognized as and declared to be the county seats of the respective counties. No county seat shall be removed unless

two-thirds of the qualified electors of the county, voting on the proposition at a general election, shall vote in favor of such removal.

§ 12. Whenever there shall be presented to the board of supervisors of any county a petition, signed by the qualified electors of such county, in number equal to a majority of the votes cast at the preceding general election, praying for the submission of the question of the removal of the county seat of such county, it shall be the duty of the board of supervisors, by due proclamation, to submit the question of such removal of the county seat at the next general election to the qualified electors of such county. The election shall be conducted and the returns canvassed in all respects as provided by law for the conduct of general elections and canvassing the returns thereof.

§ 13. Whenever there shall be presented to the board of supervisors, a petition, or petitions, signed by legal voters of said county equal in number to fifty per cent of the votes cast at the last preceding general election, asking that an ordinance, to be set forth in such petition, be submitted to a vote of the qualified voters of such county, it shall be the duty of the board of supervisors, by proclamation, to submit such proposed ordinance to the vote of the qualified electors of such county. Such election shall be held within thirty days after the first regular meeting of the board after the filing of such petition; provided, that should such petition be filed within six months prior to a general election, no special election need be held, but such ordinance shall be submitted at the next general election. The ballots used at such special or general election shall contain the words "For the ordinance" (stating the nature of the ordinance), and "Against the ordinance," stating the nature of the ordinance. The election shall be conducted and the returns canvassed in all respects as provided by law, for the conducting of general elections and the canvassing the returns thereof; provided, that when a special election is held under the provisions of this section, the board of supervisors, in their discretion, may consolidate precincts, and may reduce the number of election officers to a number not less than four. If a majority of the votes cast upon such ordinance shall be in favor of the adoption thereof, the board of supervisors shall proclaim such fact, and upon the publication of such proclamation, such ordinance thus adopted shall have the same and equal force and effect as though adopted and ordained by the board of supervisors. The board of supervisors may also, at any election, submit any question or proposition upon which they may desire the opinion of the voters of the county.

BOARD OF SUPERVISORS.

§ 14. Each county must have a board of supervisors consisting of five members.

§ 15. Each member of the board of supervisors must be an elector of the district which he represents, must reside therein during his incumbency, must have been such elector for at least one year immediately preceding his election, and shall be elected by such district, and not at

large; provided, that in any county or city and county in which supervisorial districts have not been established by law or ordinance, and in which supervisors are now required to be elected at large, but from particular wards, the members of the board of supervisors shall be elected at large and without regard to residence.

§ 16. The board of supervisors may, by a two-thirds vote of the members of said board, change the boundaries of any or all of the supervisorial districts of a county. Said districts shall be as nearly equal in population as may be. The boundaries of no supervisorial district shall at any time be changed in such manner as to affect the term of office of any supervisor who has been elected, and whose term of office has not expired. No change in the boundaries of any supervisorial district shall be made within ninety days next preceding a general election.

§ 17. Whenever a vacancy occurs in the board of supervisors of a county, the governor shall fill the vacancy, and the appointee shall hold office until the election and qualification of his successor. In such case the election of a supervisor shall be held at the next general election to fill the vacancy for the unexpired term, unless such term expires on the first Monday after the first day of January succeeding said election.

§ 18. The supervisors shall elect a chairman, who shall preside at all meetings of the board, and in case of his absence or inability to act, the members present must, by an order entered on their records, select one of their number to act as chairman temporarily. Any member of the board may administer oaths, when necessary in the performance of his official duties. A majority of the members of the board shall constitute a quorum for the transaction of business, and no act of the board shall be valid or binding unless a majority of all the members concur therein.

§ 19. The county clerk is ex officio clerk of the board of supervisors. The records and minutes of the board must be signed by the chairman and the clerk.

CLERK OF BOARD.

§ 20. The clerk of the board must:

1. Record all the proceedings of the board.
2. Make full entries of all their resolutions and decisions on all questions concerning the raising of money for and the allowance of accounts against the county.
3. Record the vote of each member on any question upon which there is a division, or at the request of any member present.
4. Immediately after the adjournment of each meeting of the board, certify all demands allowed and orders made for the payment of money, giving the amount and date of each demand, or order, and the date of the allowance thereof, which demands, or orders, shall be countersigned by the chairman of the board, and thereafter said clerk shall deliver to and leave the same with the auditor.
5. File and preserve the reports of the county treasurer of the receipts and disbursements of the county.

6. Preserve and file a memorandum of all accounts acted upon by the board.

7. Preserve and file all petitions and applications for franchises, and record the action of the board thereon.

8. Authenticate with his signature and seal of the board the proceedings of the board, whenever the same shall be ordered published.

9. Authenticate with his signature and the seal of the board, all ordinances passed by the board, and to record the same at length in the "Ordinance Book."

10. Record all orders levying taxes; and,

11. Perform all other duties required by law, or any rule or order of the board.

§ 21. The board must cause to be kept:

1. A "Minute Book," in which shall be entered the daily proceedings had at all regular and special meetings, and all orders and decisions made by them, except such as are required to be recorded in the "Road," "Franchise," or "Ordinance" books.

2. An "Allowance Book," in which must be recorded all orders for the allowance of money, from the county treasury, to whom made, and on what account, dating, numbering, and indexing the same through each year.

3. A "Road Book," containing all proceedings and adjudications relating to the establishment, maintenance, change, and discontinuance of roads and road districts.

4. A "Franchise Book," containing all franchises granted by them, and all proceedings had in relation thereto.

5. A "Warrant Book," to be kept by the county auditor, in which must be entered, in the order of drawing, all warrants drawn on the treasury, with their number, and reference to the order on the minute book, with the date, amount, on what account, and name of payee.

6. An "Ordinance Book," in which must be entered all ordinances duly passed by the board.

§ 22. The board of supervisors must, by ordinance, provide for the holding of regular meetings of the board at the county seat.

§ 23. A special meeting may be ordered by a majority of the board. The order must be signed by the members calling such meeting, and must be entered in the minutes. Five days' notice of such meeting must be given by the clerk, personally or by mail, to the members not joining in the order. The order must specify the business to be transacted at such special meeting, and none other shall be transacted.

§ 24. All meetings of the board must be public, and the books, records, and accounts of the board must be kept at the office of the clerk, open at all times for public inspection.

GENERAL PERMANENT POWERS OF BOARDS.

§ 25. The boards of supervisors, in their respective counties, shall have jurisdiction and power, under such limitations and restrictions as are prescribed by law:

1. To supervise the official conduct of all county officers, and officers of all districts and other subdivisions of the county charged with the assessing, collecting, safekeeping, management, or disbursement of the public revenues; to see that they faithfully perform their duties, direct prosecutions for delinquencies, and, when necessary, require them to renew their official bonds, make reports and present their books and accounts for inspection.

2. To divide the counties into townships, election, school, road, supervisor, sanitary, and other districts required by law, change the same, and create others, as convenience requires.

3. To establish, abolish, and change election precincts, and to appoint inspectors and judges of election, canvass all election returns, declare the result, and order the county clerk to issue certificates thereof; but no election precinct shall be established or abolished, or the boundaries of any precinct changed, within ninety days prior to any election.

4. To lay out, maintain, control, construct, repair, and manage public roads, turnpikes, ferries, wharves, chutes, and other shipping facilities and bridges within the county, unless otherwise provided by law, and to grant franchises and licenses to collect tolls thereon; provided, where the cost of the construction of any bridge, wharf, chute, or other shipping facilities that may be built under the provisions of this subdivision exceeds the sum of five hundred dollars, they must cause to be prepared and must adopt plans and specifications, strain sheets, and working details, and must advertise for bids for the construction of such bridge, wharves, chutes, or other shipping facilities, unless otherwise provided by law, in accordance with the plans and specifications so adopted. All bidders shall be afforded opportunity to examine such plans and specifications, and said board shall award the contract to the lowest responsible bidder, and the plans and specifications so adopted shall be attached to and become a part of the contract; and the person or corporation to whom the contract is awarded shall be required to execute a bond, to be approved by said board, for the faithful performance of such contract; provided, that after the submission of the bids as herein provided, the board of supervisors being advised by the county surveyor that the work can be done for a sum less than the lowest responsible bid, it shall then be their privilege to reject all bids and to order the work done or structure built by day's work, under the supervision and control of the said surveyor; provided further, that the surveyor in such cases shall be held personally responsible, under his official bond, to construct said bridge or structure, according to his plans and specifications, at a cost not to exceed the amount of the lowest responsible bid received; provided, that the road commissioners or road overseers in their respective districts shall employ all labor required and direct the conduct of work of any kind upon any and all public roads; provided further, that in cases of great emergency, by the unanimous consent of the whole board,

they may proceed at once to replace or repair any and all bridges and structures without notice.

5. To construct or lease, officer and maintain, hospitals and poorhouses, or otherwise, in their discretion, provide for the care and maintenance of the indigent sick or dependent poor of the county; and for such purposes to levy the necessary property or poll taxes, or both. The board of supervisors shall appoint some suitable person to take care of and maintain such hospitals and poorhouses, and shall also appoint some suitable graduate or graduates in medicine to attend to such indigent sick or dependent poor, and to the patients in such hospitals and poorhouses. The board shall not let the care, maintenance, or attendance of such indigent sick or dependent poor by contract to the lowest bidder.

6. To provide a farm in connection with the county hospital, or poorhouse, and make regulations for working the same.

7. To purchase, receive by donation, or lease any real or personal property or water rights necessary for the use of the county, and to purchase or otherwise acquire necessary real estate upon which to sink wells to obtain water for sprinkling roads, and other county purposes, and to erect thereon tanks and reservoirs for the storage of water for such purposes, and to erect pumping apparatus for obtaining the same, to preserve, to take care of, and manage and control the same; but no purchase of real property shall be made unless a notice of the intention of the board to make such purchase, describing the property to be purchased, the price to be paid therefor, from whom it is proposed to be purchased, and fixing the time when the board will meet to consummate such purchase, has been published for at least three weeks in some newspaper of general circulation, published in the county; or if none be published in the county, then has been posted at least three weeks prior to the time when the board meets to consummate such purchase, in at least three public places in each supervisor district.

8. To cause to be erected or rebuilt, or furnished, a courthouse, jail, hospital, and such other public buildings as may be necessary, or to provide suitable buildings for such purposes. None of the aforesaid buildings shall be erected or constructed until the plans and specifications have been made therefor and adopted by the board. All such buildings must be erected by contract, let to the lowest responsible bidder, after notice by publication in a newspaper of general circulation published in such county, for at least thirty days. In case there is no newspaper published in such county, then such notice shall be given by posting in three public places.

9. To sell at public auction, at courthouse door, or at such other place within the county, as the board may, by a four-fifths vote, order, after thirty days' notice, given either by publication in a newspaper published in the county, or by posting in five public places in the county, and convey to the highest bidder for cash, any property belonging to the county not required for public use, paying the proceeds into the county treasury for the use of the county; provided, if in the unanimous judgment of the board, the property does not exceed in value the sum of seventy-five dollars, or if it be the product of the county farm, the same may be sold

at private sale without advertising by any member of the board empowered for that purpose by a majority of the board.

10. To examine and audit, at least every twelve months, the accounts of all officers having the care, management, collection, or disbursement of moneys belonging to the county, or moneys received or disbursed by them under authority of law.

11. To examine, settle, and allow all accounts legally chargeable against the county, except salaries of officers, and such demands as are authorized by law to be allowed by some other person or tribunal, and order warrants to be drawn on the county treasurer therefor.

12. To levy taxes upon the taxable property of their respective counties for all county purposes, and also upon the taxable property of any district, for the construction and repair of roads and highways and other district purposes; provided, that no tax shall be levied upon any district until the proposition to levy the same has been submitted to the qualified electors of such district, and received a majority of all the legal votes cast upon such proposition.

12½. Whenever there shall be presented to the board of supervisors of any county a petition signed by the qualified electors of any township or townships in number equal to a majority of the votes cast at the preceding general election, praying that said township or townships may be allowed to take the census of said township or townships for the purpose of ascertaining the population therein contained, the board of supervisors shall order such census to be taken by one or more suitable persons appointed therefor by the board of supervisors, and such census shall be taken by such persons so appointed of all the inhabitants of such township or townships; the full name of each person shall be plainly written, the names alphabetically arranged and regularly numbered in one complete series, and when completed shall be verified before any officer authorized to administer oaths, and be filed with the county clerk of the county wherein such census is taken, and thereupon the same shall be known and shall be the official census of said township or townships. The expenses of taking such census shall be a county charge.

13. Any county having an outstanding indebtedness, evidenced by bonds or warrants thereof, may refund such indebtedness and issue bonds of the county therefor, and any county may incur or refund a bonded indebtedness for any purposes for which the board of supervisors are herein authorized to expend the funds of said county. Such indebtedness shall be refunded or incurred in the following manner, to wit: The board of supervisors thereof shall by order specify the purpose for which the indebtedness is to be incurred, the amount of bonds which they propose to issue, the rate of interest, and the number of years, not exceeding forty, the whole or any part of said bonds are to run, and shall further provide for submitting the question of the issue of said bonds to the qualified electors of the county at a special election to be called by the board for that purpose, and the words to appear upon the ballot shall be "Bonds—Yes," and "Bonds—No," or words of similar import. None but qualified voters of the county shall be permitted to vote thereat, and it shall be held as nearly as practicable in conformity with the general

election law of the state. Notice shall be given of such election by publication in one or more newspapers published in the county, once a week for at least four weeks or daily for not less than thirty days, prior to said election. If there be no such newspaper, then by posting the same conspicuously in five public places in said county at least thirty days before said election. Such notice must contain the time and place or places of holding such election, the name of election officers to conduct the same, the amount and denomination of the bonds, the rate of interest to be paid, and the number of years, not exceeding forty, the whole or any part of such bonds are to run. If any election officers so named in such notice are not present at the opening of the polls, the electors present may appoint election officers to take the place of such election officers absent. If two-thirds of the electors of the county voting at such election shall vote in favor of issuing such bonds, the board must proceed to issue the amount of bonds specified; provided, that the total amount of bonded indebtedness shall at no time exceed five per cent of the taxable property of the county, as shown by the last equalized assessment book thereof. This limitation shall not apply to bonds which may be issued to refund an indebtedness existing January first, eighteen hundred and eighty. The board of supervisors, by an order entered upon its minutes, shall prescribe the form of said bonds, and of the interest coupons attached thereto, and fix the time when the whole or any part of the principal of said bonds shall be payable, which shall not be more than forty years from the date thereof; and said board may also, at their option, by a provision in such bonds, make such principal payable on or before a specified date at the pleasure of the county. Said bonds may be issued in denominations not to exceed one thousand dollars and not less than one hundred dollars; principal and interest payable in gold coin of the United States, either at the treasury of said county, or at such place as such board may designate, or both at such treasury or such designated place, at the option of the bondholder. Interest on said bonds shall not exceed six per cent per annum, payable annually or semi-annually, as said board may designate. Said bonds shall be signed by the chairman of the board of supervisors, and attested by the auditor of said county, and have the seal of the board of supervisors attached, and said coupons shall be signed by said auditor by original or lithographed fac-simile signature; and said bonds shall be sold in the manner prescribed by said board of supervisors, but for not less than par. The board of supervisors before or at the time of incurring the indebtedness of any bonds issued under the provisions of this act, and annually thereafter until all of said bonds are paid and canceled, must levy a tax for that year upon the taxable property of said county for the interest and redemption of said bonds, and such tax must not be less than sufficient to pay the interest on said bonds for that year, and such portion of the principal, if any, as is to become due during such year, and in any event must be sufficient to raise annually for the first half of the term said bonds have to run, a sufficient sum to pay the interest thereon; and during the balance of the term sufficient to pay such annual interest, and to provide annually a proportion of the principal of

said bonds equal to a sum produced by taking the whole amount of said bonds outstanding and dividing it by the number of years said bonds then have to run. And the board of supervisors, before or at the time of issuing said bonds by ordinance shall provide for the levy of an annual tax sufficient to effect the objects of this provision, and to provide for the payment of the interest on said bonds as it becomes due, and also sufficient to constitute a sinking fund to pay the principal of such indebtedness at or before maturity. Such tax when collected, shall be paid into the treasury of the county, and used solely to pay the interest and principal of said bonds as they respectively become due.

The revenue derived from the sale of said bonds shall be applied to the purpose specified in the order of the board, and no other. Should there be any surplus, it shall be applied toward the payment of said bonds. The board of supervisors of any county can contract a bonded indebtedness for county purposes only as herein provided.

In issuing bonds under this act, the board of supervisors may, at its option, use the following form of bond and coupon:

United States of America,
No. ——— County of ———, § ———
State of California.

The county of ———, state of California, hereby acknowledges itself indebted and promises to pay the bearer hereof, on the first day of ———, one thousand ——— (herein insert, if the board of supervisors elect to make the bond payable on a certain date, or before that date, at the pleasure of the county, the words "or at any time before that date, at the pleasure of the county"), with interest thereon in like gold coin, at the rate of ——— per centum per annum payable at ——— semi-annually (or annually) on the first day of ——— and ——— (or on the first day of ———, if interest payable annually) on presentation and surrender of the interest coupon hereto attached.

This bond is issued by the board of supervisors of the county of ———, state of California, in strict compliance with an act of the legislature entitled "An Act to establish a uniform system of county and township governments," approved the ——— day of ———, 189—, and in pursuance of an order of said board duly made on the ——— day of ———, 18—, and with the assent of two-thirds of the qualified electors of said county, voting at an election legally called and duly held for that purpose on the ——— day of ———, 18—.

And it is hereby certified and recited that the bonded indebtedness of said county, including this bond, does not exceed five per cent of the taxable property thereof, as shown by the last equalized assessment of said county, and that provision has been made for the collection of an annual tax sufficient to pay the interest on this indebtedness as it falls due, and also sufficient to constitute a sinking fund for the payment of said indebtedness at or before maturity.

In witness whereof the said county, by its board of supervisors, has caused this bond to be signed by the chairman of said board, and attested

by the auditor thereof, and the seal of the board of supervisors hereto attached this — day of —, one thousand —.

_____,
Chairman board of supervisors.

Attest: _____,

County Auditor.

And the interest coupon may be in the following form:

"The county of _____, state of California, hereby promises to pay the holder hereof, on the _____ day of _____, one thousand _____, at _____, in _____ \$ — United States gold coin, for interest on its county bond No. _____,

_____,
County Auditor."

If the board of supervisors of any county which has issued bonds under the provisions of this act shall fail to make the levy necessary to pay such bonds or interest coupons at maturity, and the same shall have been presented to the county treasurer and the payment thereof refused, the owner may file the bond, together with all unpaid coupons with the state controller, taking his receipt therefor, and the same shall be registered in the state controller's office; and the state board of equalization shall, at their next session, and at each annual equalization thereafter, add to the state tax to be levied in said county a sufficient rate to realize the amount of principal or interest past due and to become due prior to the next levy, and the same shall be levied and collected as a part of the state tax and paid into the state treasury and passed to the special credit of such county as bond tax, and shall be paid by warrants, as the payments mature, to the holder of such registered obligations, as shown by the register in the office of the state controller, until the same shall be fully satisfied and discharged, any balance then remaining being passed to the general account and credit of said county.

14. To maintain, regulate, and govern public pounds, fix the limits within which animals shall not run at large, and appoint poundkeepers, who shall be paid out of the fines imposed and collected from the owners of impounded animals, and from no other source.

15. To equalize assessments.

16. To direct and control the prosecution and defense of all suits to which the county is a party, and, by a two-thirds vote of all the members, may employ counsel to assist the district attorney in conducting the same.

17. To insure the county buildings and other property in the name of and for the benefit of the county.

18. To establish a salary fund, and such other county funds as they may deem necessary for the proper transaction of the business of the county, and to transfer moneys from one fund to another, as the public interest may require.

19. To fill, by appointment, all vacancies that may occur in any office filled by the appointment of the board of supervisors and elective county or township officers, except in those of judge of the superior court and

supervisor, the appointee to hold office for the unexpired term or until the next general election.

20. They may appoint in each county, a health officer, whose duty it shall be to enforce all orders and ordinances of the board of supervisors, pertaining to sanitary matters, and all orders, quarantine regulations, and rules prescribed by the state board of health, and all statutes relating to vital statistics. He shall give to the duties of his office such time and attention as may be necessary to secure general supervision of all matters pertaining to the health and sanitary condition of the county. He shall be a graduate of a medical college of good standing and repute, and shall hold office for a term of one year, and receive for his services a compensation not to exceed six hundred dollars per annum.

The board of supervisors shall adopt orders and ordinances necessary for the preservation of the public health of the county, not in conflict with general laws, and provide for the payment of all expense incurred in enforcing the same.

For any unincorporated town, when public necessity requires such action, the board of supervisors may appoint a special health officer, who shall, in such town, under the supervision of the county health officer, exercise all necessary diligence in executing the ordinances, rules and regulations of the board of supervisors, or the state board of health, relating to health and sanitary matters. His term of office and compensation shall be fixed by the board of supervisors, and he shall receive as his compensation for services not to exceed one hundred dollars in any one year.

21. The board of supervisors of the several counties shall annually advertise, for at least ten days in a newspaper of general circulation in the county (if there be a newspaper published in the county, otherwise by posting notices in three public places), for sealed bids for furnishing the county with stationery, clothing, bedding, groceries, provisions, drugs, medicines, and all other supplies. All bids shall be on a schedule, showing all articles needed in the several offices and departments prepared by the clerk of the board, shall state separately the price of each article to be furnished, and any person may bid upon any article separately.

In considering such bids, the board may accept or reject all or any of them, or may accept or reject a part of any such bid, preference being given, however, to the lowest responsible bidder. All supplies furnished the county, or any officer thereof, shall be furnished at a price no greater than is specified in the bid which may be accepted by the board.

The board shall annually fix the price at which the county shall be supplied with job printing and blank books, from a schedule prepared by the clerk of the board, showing all blanks and blank books used in the several offices and departments, and also the price of all county advertising; and each county officer shall procure such blank books, job printing, and advertising required for the proper discharge of his official duties, such printing and advertising to be done by such person or newspaper as such county officer may designate, at a price no greater than is so fixed, and certify the bill therefor to the board of supervisors.

A square of advertising shall be two hundred and thirty-four ems nonpareil. No supplies, printing, stationery, or books, shall be procured by any person or firm whose paper has not been published, or whose place of business has not been established in the county for one year or more prior to the time for fixing said prices.

22. The board shall cause to be published a semi-annual statement of the financial condition of the county, showing, in detail the expenditures authorized during the preceding six months; and within ten days after each session of the board, a fair statement of all their proceedings.

23. To make and enforce such rules and regulations for the government of their body, the preservation of order, and the transaction of business, as may be necessary.

24. To adopt a seal for the board a description and impression of which must be filed in the office of the county clerk and of the secretary of state.

25. To license, for purposes of regulation of revenue, all and every kind of business not prohibited by law, and transacted and carried on in such county, and all shows, exhibitions, and lawful games carried on therein; to fix the rates of license tax upon the same, and to provide for the collection of the same, by suit or otherwise; provided, that every honorably discharged soldier, sailor, or marine of the United States, who is unable to obtain a livelihood by manual labor, shall have the right to hawk, peddle, and vend any goods, wares or merchandise except spirituous, malt, vinous, or other intoxicating liquor, without payment of any license, tax, or fee whatsoever, whether municipal, county, or state; and the board of supervisors shall issue to such soldier, sailor, or marine, without cost, a license therefor. The board may provide that any such license shall cease upon the nonpayment of such tax, and any person, firm, or corporation transacting or carrying on such business, without such license whenever prescribed is guilty of a misdemeanor.

26. To provide for the destruction of gophers, squirrels, other wild animals, noxious weeds, and insects injurious to fruit or fruit trees, or vines, or vegetable or plant life.

27. To provide for the prevention of injuries to sheep by dogs, and to tax dogs and direct the application of the tax.

28. To provide, by ordinances not in conflict with the general laws of the state for the protection of fish and game, and may shorten the season for the taking or killing of fish and game, within the dates fixed by the general state laws, but shall not lengthen the same.

29. To provide for the working of prisoners confined in the county jail, under judgment of conviction of misdemeanor, under the direction of some responsible person, to be appointed by the sheriff, whose compensation shall not exceed one hundred dollars per month, upon the public grounds, roads, streets, alleys, highways, or public buildings, or in such other places as may be deemed advisable, for the benefit of the county.

30. To provide for the burying of the indigent dead.

31. To make and enforce, within the limits of their county all such local police, sanitary, and other regulations as are not in conflict with general laws.

32. To adopt such rules and regulations within their respective counties, with regard to keeping and storing of every description of gunpowder, Hercules powder, giant powder, or other explosive or combustible material, as the safety and protection of the lives and property of individuals may require.

33. To appropriate from the general fund of the county, unless otherwise in this act provided, not to exceed, in counties of the first and second class, the sum of three thousand dollars, and in all other counties the sum of two thousand dollars in any one year, to aid in or carry on the work of inducing immigration thereto, or for the purpose of exhibiting or advertising the agricultural, mineral, manufacturing, or other resources of the county.

34. To enforce, by ordinance, within the limits of their counties, all such regulations concerning the size of wagons and vehicles of all kinds to be used on the roads or highways, and the width of tires on the same, as are not in conflict with general laws.

35. To grant licenses and franchises for constructing, keeping, and taking tolls on roads, bridges, ferries, wharves, chutes, booms, and piers, and to grant franchises along and over the public roads and highways for all lawful purposes, upon such terms and conditions and restrictions as in their judgment may be necessary and proper, and in such manner as to prevent the least possible obstruction and inconvenience to the traveling public.

36. To grant on such terms, conditions, and restrictions as in their judgment may be necessary and proper, licenses and franchises for taking tolls on public roads or highways, whenever in their judgment the expense necessary to operate or maintain such public roads or highways as free public highways is too great to justify the county in so operating or maintaining them. It shall always be a condition attached to the granting of such licenses and franchises, that such roads or highways shall be kept in reasonable repair by the person or persons to whom such licenses or franchises may be granted.

37. To enact ordinances, and regulations for the construction, alteration, repair, and control of all public roads and highways in the county, unless otherwise provided by law.

38. To levy a special road fund tax, not to exceed two (2) mills on the one dollar of assessed valuation, on all the property in such counties, outside of any incorporated city or town. Such tax shall be in addition to all taxes otherwise provided for, and the fund so created shall be expended for the construction and maintenance of the main public roads or county highways in the several road districts in proportion to the amount collected from such districts.

39. To encourage, under such regulations as they may adopt, the planting and preservation of shade and ornamental trees on the public roads and highways, and on and about the public grounds and buildings of the county, and pay to persons planting and cultivating the same, for every living tree thus planted at the age of four years, a sum not exceeding one dollar.

40. To do and perform all other acts and things, required by law not in this act enumerated, or which may be necessary to the full discharge of the duties of the legislative authority of the county government.

41. To provide by ordinance for the organization and government of districts, to protect and preserve the banks of rivers and streams and lands lying contiguous thereto from injury by overflow or the washing thereof, and to provide for the improvements of said rivers and streams, and prevent the obstruction thereof, and to provide for the assessment, levy, and collections within such districts of a tax therefor.

§ 25½. The board of supervisors shall adopt orders and enact ordinances necessary for the preservation of the health of domestic livestock, which orders and ordinances shall not be in conflict with state or federal laws, and the said board of supervisors shall provide for the payment of all expenses incurred in enforcing the same, which expenses shall be a county charge and payable in the same manner and out of the same funds as other county charges are paid. [New section approved March 21, 1905. Stats. 1905, p. 722. In effect in sixty days.]

§ 26. The enacting clause of all ordinances of the board shall be as follows: "The board of supervisors of the county of — do ordain as follows." Every ordinance shall be signed by the chairman of the board and attested by the clerk. On the passage of all ordinances the votes of the several members of the board shall be entered on the minutes, and all ordinances shall be entered at length in the "Ordinance Book." No ordinance passed by the board shall take effect within less than fifteen days after its passage, and before the expiration of the said fifteen days the same shall be published, with the names of the members voting for and against the same, for at least one week, in some newspaper published in the county, if there be one, and if there be none published in the county, then such ordinance shall be posted at the courthouse door at least one week. An order entered in the minutes of the board that such ordinance has been duly published or posted shall be prima facie proof of such publication or posting.

§ 27. The board of supervisors shall have power to direct the sheriff to attend, in person or by deputy, all the meetings of the board, to preserve order, serve notices, subpoenas, citations, or other process, as directed by the board.

§ 28. Whenever the board of supervisors of any county shall deem it necessary or important to examine any person as a witness upon any subject or matter within the jurisdiction of such board, or to examine any officer of the county in relation to the discharge of his official duties, as to the receipt or disposition by him of any moneys, or concerning the possession or disbursement by him of any property belonging to the county, or to use, inspect, or examine any books, account, voucher, or document in the possession of such officer or other person, or under his control, relating to the affairs or interests of such county, the chairman of such board shall issue a subpoena, in proper form, commanding such

person or officer to appear before such board, at a time and place therein specified, to be examined as a witness; and such subpoena may require such person or officer to produce on such examination all books, papers, and documents in his possession or under his control, relating to the affairs or interests of the county.

§ 29. It shall be the duty of the sheriff of the county to whom the subpoena is delivered, to serve the same by reading it to the person named therein, and at the same time to deliver to him a copy thereof, and his official return thereon, of the time and place of such service, shall be prima facie evidence thereof.

§ 30. Whenever the board of supervisors shall appoint any members of their body a committee upon any subject or matter of which the board has jurisdiction, and has conferred upon such committee power to send for persons and papers, the chairman of such committee shall possess all the powers and be liable to all the duties herein given to and imposed upon the chairman of the board of supervisors.

§ 31. Whenever any person duly subpoenaed to appear and give evidence, or to produce any books and papers, as herein provided, shall neglect or refuse to appear, or to produce such books and papers, as required by such subpoena, or shall refuse to testify before such board or committee, or to answer any questions which a majority thereof shall decide to be proper and pertinent, he shall be deemed in contempt, and it shall be the duty of the chairman of the board, or of the committee, as the case may be, to report the fact to the judge of the superior court of the county, or of the city and county, who shall thereupon issue an attachment in the form usual in the court of which he shall be judge, directed to the sheriff of the county where such witness was required to appear and testify, commanding the said sheriff to attach such person, and forthwith bring him before the judge by whose order such attachment was issued.

§ 32. On return of the attachment and the production of the body of the defendant, the said judge shall have jurisdiction of the matter, and the person charged may purge himself of the contempt in the same way, and the same proceedings shall be had, and the same penalties may be imposed, and the same punishment inflicted as in case of a witness subpoenaed to appear and give evidence on the trial of a civil cause before a superior court.

§ 33. The witnesses summoned to testify on behalf of the county in matters of public concern before the board of supervisors are not entitled to have their fees prepaid; but the board must allow them the reasonable expenses of their attendance.

§ 33½. To appropriate from the general fund of the county, unless otherwise provided, not exceeding in counties of the first and second class the sum of twenty thousand dollars, and in all other counties not exceeding the sum of ten thousand dollars in any one year, to aid in and

carry on the work of the preservation of forests upon public lands, the reforestation of forests upon public lands, and the protection of forests upon public lands from fire. [Amendment, approved March 20, 1905. Stats. 1905, p. 394. In effect in sixty days.]

§ 34. The board must provide printed copies of the great register, poll lists, poll books, blank returns and certificates, proclamations of elections, and other appropriate and necessary appliances for holding all elections in the county, and allow reasonable charges therefor, and for the transmission and return of the same to the proper officers.

§ 35. Whenever, as canvassers, the board of supervisors have declared the result of an election held in the county, certificates must be, by the county clerk, issued to all persons elected to a county, township, or district office therein, and such other certificates must be made out and transmitted as required by law.

§ 36. The board must not, for any purpose, contract debts or liabilities, in any manner or for any purpose, which exceed in any fiscal year the income and revenue provided for such year, except as permitted by the constitution. It shall be the duty of the auditor, at the commencement of each regular session of the board, to lay before it a statement prepared by him of the aggregate amount of allowance against each fund, and of salaries and liabilities fixed by law, paid or payable therefrom since the beginning of the fiscal year, together with a statement of receipts of each fund for that portion of the year already elapsed, and an exact estimate of the revenue for the remainder of the year apportioned to the different funds, based upon the receipts for the corresponding portion of the preceding year. Whenever the board shall have levied the state and county tax for the fiscal year, the auditor's estimates for the remainder of the year shall, as to receipts from property tax, be based upon the assessment-roll and tax levy, deducting ten per cent for the anticipated delinquencies. Up to and including the first day of January in each fiscal year the board shall have no power for any purpose to contract debts or liabilities in any manner or for any purpose nor to make any allowances against any funds, which with all the debts and liabilities previously incurred and with all allowances previously made, and salaries and liabilities fixed by law payable therefrom, shall exceed seventy per cent of the auditor's estimate of revenue for the year, except to build or repair roads and bridges which have been destroyed or made impassable by flood or fire. Any debts or liabilities contracted in any manner or for any purpose and any allowances made contrary to the provisions of this section shall be null and void and the auditor shall not draw his warrant therefor nor the treasurer pay the same. When several allowances are made on the same day, they shall be deemed to have been in the order in which they are entered in the "Allowance Book," and

shall be certified in that order by the auditor. [Amendment approved March 24, 1903. Stats. 1903, p. 402. In effect immediately.]

§ 37. Whenever the board of supervisors shall adopt plans and specifications for the erection, alteration, construction, or repair of any public building, bridge, or other public structure, such plans and specifications shall not be altered or changed in any manner whereby the cost of such building, bridge, or structure shall be increased, except by a vote of two-thirds of their number.

§ 38. Whenever the board of supervisors shall enter into a contract for the erection, construction, alteration, or repair of any public building, bridge, or other structure, such contract shall not be altered or changed in any manner, unless they shall, by a vote of two-thirds of their number, and with the consent of the contractor, first so order. And whenever any such change or alteration is so ordered, the particular change or alteration shall be specified, in writing, and the cost thereof agreed upon between the board and the contractor. In no case shall the board pay or become liable to pay for any extra work done on, or extra material furnished for, such building or structure.

§ 39. No county officer shall, except for his own service, present any claim, account, or demand for allowance against the county, or in any way except in the discharge of his official duty advocate the relief asked in the claim or demand made by any other. Any person may appear before the board and oppose the allowance of any claim or demand made against the county.

§ 40. The board of supervisors must not hear or consider any claim in favor of any public officer, person, corporation, company, or association against the county, nor shall the board credit or allow any claim or bill against the county or district fund, unless the same be itemized, giving names, dates and particular services rendered, character of process served, upon whom, distance traveled, where and when, character of work done, number of days engaged, supplies or materials furnished, to whom, and quantity and price paid therefor, duly verified to be correct, and that the amount claimed is justly due, and is presented and filed with the clerk of the board within a year after the last item of the account or claim accrued. If, in case of any claim which requires itemizing, the board do not hear or consider the same because it is not itemized, they shall cause notice to be given to the claimant or his attorney of that fact, and give time to have the claim itemized and reverified.

§ 41. No account shall be passed upon by the board, unless made out as prescribed in this and the preceding section and filed with the clerk three days prior to the time of the meeting of the board at which it is asked to be allowed.

Such demand shall be made out in form substantially as follows:

Clerk's memoranda, No. ——. Fund.

Demand of —, dated —, in sum of \$—, for —. Allowed by the board of supervisors —, 18—, in the sum of \$—.

Attest: —, Clerk of Board.

Demand of —

No. —. Fund —. Demand on the treasury of the county of —, state of California, for the sum of — dollars, being for —.

Date.	Items.	Dollars.	Cents.
.....			
.....			
.....			
			
		\$.....	

Expenditures authorized and approved by me.

State of California, } ss.
County of —, }

The undersigned being duly sworn, says: That the above claim and the items as therein set out are true and correct; that no part thereof has been heretofore paid, and that the amount therein is justly due this claimant, and that the same is presented within one year after the last item thereof has accrued.

Subscribed and sworn to before me this — day of —.

—, County Clerk.

Allowed by Board of Supervisors, —, 18—, in sum of \$—, payable out of — Fund.

Attest: —, Clerk of Board of Supervisors.

Countersigned: —, Chairman Board of Supervisors.

Warrant No. —.

Allowed —, 18—, for the sum of \$—, payable out of — Fund.

—, County Auditor.

No. —. Registered —, 189—.

—, County Treasurer.

Said demand shall be approved before filing by the officer who directed such expenditure. If said demand be allowed by the board, the clerk of the board shall detach and file the memorandum, and shall indorse on such demand "Allowed by the board of supervisors," together with the date of such allowance, the amount of such allowance and from what fund; shall attest the same with his signature, and, when countersigned by the chairman, shall transmit the same to the auditor, who shall in case he allows said demand, indorse upon it "Allowed," together with the amount for which it is allowed, from what fund, date and number of the warrant, and shall, in attestation thereof, affix his signature thereto and deliver the same to the claimant; and said demand, when so

allowed and signed by the auditor, shall constitute the warrant on the treasury, within the meaning of this act.

§ 42. When the board find that any claim presented is not payable by the county, or is not a proper county charge, it must be rejected; and said rejection shall be plainly indorsed on said claim; if they find it to be a proper county charge, but greater in amount than is justly due, the board may allow the claim in part, and draw a warrant for the portion allowed, on the claimant filing a receipt in full for his account. If the claimant is unwilling to receive such amount in full payment, the claim may again be considered at the next regular session of the board, but not afterward.

§ 43. If the board refuse, or neglect to allow or reject a claim or demand for ninety days, after the same has been filed with the clerk, such refusal or neglect may, at the option of the claimant, be deemed equivalent to final action and rejection on the ninetieth day, and a claimant dissatisfied with the rejection of his claim or demand, or with the amount allowed him on his account, may sue the county therefor at any time within six months after the final action of the board, but not afterward, and if, in such action, judgment is recovered for more than the board allowed, on presentation of a certified copy of the judgment, the board must allow and pay the same, together with the costs adjudged; but if no more is recovered than the board allowed, the board must pay the claimant no more than was originally allowed.

§ 44. Warrants drawn by order of the supervisors on the county treasury for the current expenses during each year, must specify the liability for which they are drawn, and when they accrued, and must be paid in the order of the presentation to the treasurer. If the fund is insufficient to pay any warrant, it must be registered, and thereafter paid in order of registration.

§ 45. No member of the board must be interested, directly or indirectly, in any property purchased for the use of the county, nor in any purchase or sale of property belonging to the county, nor in any contract made by the board, or other person, on behalf of the county, for the erection of public buildings, the opening or improvement of roads, or the building of bridges, or for any purpose, or act as a member of a committee or board of reviewers.

§ 46. Whenever an application is made to the board for an order, franchise or license relating to any toll road, bridge, ferry, wharf, chute, pier or other subject over which the board has jurisdiction, in which a majority of the board are interested, the application, by order of the board, must be transferred to the superior court of the county. The clerk of the board must thereupon certify the application, and all orders and papers relating thereto, to said superior court, and thereafter the said superior court shall have full jurisdiction to hear and determine the application.

§ 47. All public notices of proceedings of or to be had before the board, not otherwise specially provided for, must be posted at the courthouse door, and two other public places in the county.

§ 48. The board must require the assessor to report to the state board of equalization, annually, a true statement of the agricultural and industrial pursuits and products of the county, with such other statistical information as they may direct.

§ 49. All claims against the county, presented by members of the board of supervisors for per diem and mileage, or other service rendered by them, must be itemized and verified as other claims, and must state that the service has been actually rendered, and before allowance such claims must be presented to the district attorney, who must indorse thereon, in writing, his opinion as to the legality thereof. If the district attorney declare the claim, or any part thereof, illegal, he must state specifically wherein it is illegal, and the claim, or such part, must then be rejected by said board.

§ 50. The board must have prepared by the clerk, and when he is not also auditor, then by that officer, and under their direction, prior to their annual meeting for levying taxes, a statement showing:

1. The indebtedness of the county, funded and floating, stating the amount of each class, and the rate of interest borne by such indebtedness, or any part thereof.

2. A concise description of all property owned by the county, with an approximate estimate of the value thereof, and the amount of cash in the county treasury and its several funds.

§ 51. The board must receive from the United States, or other sources, lands and other property granted or donated to the county for the purpose of aiding in the erection of county buildings, roads, bridges or other specific purposes, and may use the same therefor, and may provide for the sale of the same, and the application of the proceeds thereof.

§ 52. The board may provide for widening, deepening, straightening, removing obstructions from and otherwise improving all streams and washes within the county and also protecting the banks and adjacent lands from overflow of such streams or washes, when the same are not declared by law to be, and in fact are not, navigable for commercial purposes, the overflow of which interferes with highways; and provide regulations for the use, repair, and control thereof; but no regulations of the board, nor improvements directed, must in any manner interfere with the private rights or privileges of riparian owners, miners or others. Whenever, in the opinion of the board of supervisors, the general fund is insufficient to defray the cost of the improvements provided for under this section, they may levy a tax or contract a bonded indebtedness therefor in the manner provided by this act.

§ 53. Any supervisor who refuses or neglects to perform any duty imposed on him, without just cause therefor, or who willfully violates

any law provided for his government as such officer, or fraudulently or corruptly performs any duty imposed on him, or willfully, fraudulently or corruptly attempts to perform an act as supervisor, unauthorized by law, in addition to the penalty provided in the Penal Code, forfeits to the county five hundred dollars for every such act, to be recovered on his official bond, and is further liable on his official bond, to any person injured thereby, for all damages sustained.

§54. No person is eligible to a county, district, or township office, who, at the time of his election, is not of the age of twenty-one years, a citizen of the state, and an elector of the county, district, or township in which the duties of the office are to be exercised; provided, that any woman who is of the age of twenty-one years, a citizen of the state, and a resident of the county or district, shall be eligible to the office of superintendent of public schools, school trustee, or member of the county board of education; and provided further, that no person shall hereafter be eligible to the office of district attorney who has not been admitted to practice in the supreme court of the state of California; and provided further, that the county livestock inspector shall, at the time of his appointment, be a duly qualified veterinary surgeon having on file in the office of the county clerk a certificate issued to him by the state veterinary medical board. [Amendment approved March 21, 1905, Stats. 1905, p. 721. In effect in sixty days.]

§55. The officers of a county are a sheriff, a county clerk, an auditor, a recorder, a license collector, a tax-collector, who shall be ex officio license collector, a district attorney, an assessor, a treasurer, a superintendent of schools, a public administrator, a coroner, a surveyor, the members of the board of supervisors, a livestock inspector, and such other officers as may be provided by law. In counties where the board of supervisors by proper ordinance so elect, except as otherwise provided in this act, the duties of certain of the above-mentioned officers are hereby consolidated, as follows: Sheriff and tax-collector; auditor and recorder; county clerk, auditor and recorder; county clerk and recorder; county clerk and auditor; treasurer and tax-collector; assessor and tax-collector; public administrator and coroner. In counties where the duties of said officers have been, or may hereafter be, consolidated in either manner above designated, the board of supervisors thereof, by proper ordinance, may elect to separate the duties so consolidated, and re-consolidate them in any other manner above provided, or may separate said duties without reconsolidation, and provide that the duties of each office shall be performed by a separate person, whenever, in their discretion, the public interest will be best subserved thereby. When offices are united and consolidated, the person elected to fill the offices so united and consolidated must take the oath and give the bond required for each, discharge all the duties pertaining to each, and receive the compensation of the offices consolidated. [Amendment approved March 21, 1905. Stats. 1905, p. 722. In effect in sixty days.]

§55 1/2. The livestock inspector shall be appointed by the board of supervisors whenever in the discretion of the board of supervisors the

interest of the public welfare demand the services of such an officer, and such officer shall hold his office at the pleasure of the appointing power. He shall receive a salary in the sum of one hundred and twenty-five dollars per month, which salary shall be paid at the same time and in the same manner, and out of the same funds that other county officers are paid. [New section approved March 21, 1905. Stats. 1905, p. 722. In effect in sixty days.]

§ 56. The officers of a township are, two justices of the peace, two constables, and such subordinate officers as are provided by law. In townships containing cities in which city justices and recorders are elected, and in townships having a population of less than five thousand, there shall be but one justice of the peace; and provided, that in townships containing a population of more than one hundred thousand and less than three hundred thousand there shall be four justices of the peace. The board of supervisors of each county, as public convenience may require, shall divide their respective counties into townships for the purpose of electing justices of the peace and constables; provided, however, that in the establishment of townships, no incorporated city shall be divided so as to lie partly within one township and partly within another. Upon the approval of this act the board of supervisors must appoint competent persons to fill the additional offices of justices of the peace by this act created. [Amendment approved Feb. 19, 1907. Stats. 1907, p. 9. In effect immediately.]

§ 57. Whenever notice is required by law to be published in a newspaper by any county or township officer, the person for whom the notice is to be given shall pay to such officer, if required, the fees for such publication, in advance. And failure to publish any notice required by law pertaining to the duties of his office, shall be a misdemeanor.

§ 58. All elective county and township officers, and city justices of the peace, except otherwise provided for in this act, shall be elected at the general election at which the governor is elected, and shall take office at twelve o'clock meridian on the first Monday after the first day of January next succeeding their election. All officers elected under the provisions of this act shall hold office until their successors are elected or appointed and qualified. Supervisors shall be elected at the general election prior to expiration of the term of the incumbent. The supervisors of any county created after the first day of January, eighteen hundred and ninety-three, shall, within six months after the first general election succeeding the creation of such county, classify themselves by lot into two classes, as nearly equal in number as possible, and the term of office of the class having the greater number shall expire in two years from such general election, and the term of office of the class having the lesser number shall terminate in four years from such general election.

§ 59. Every county, township, or district officer, except a supervisor or judicial officer, may appoint as many deputies as may be necessary

for the prompt and faithful discharge of the duties of his office. Such appointment must be made in writing, and filed in the office of the county clerk; and until such appointment is so made and filed, and until such deputy shall have taken the oath of office, no one shall be or act as such deputy.

§ 60. Whenever the official name of any principal officer is used in any law conferring power, or imposing duties or liabilities, it includes deputies.

§ 61. All county officers must have their offices at the county seat, and the sheriff, clerk, recorder, auditor, treasurer and district attorney must keep their offices open for the transaction of business from nine o'clock A. M. until five o'clock P. M., nonjudicial days excepted.

§ 62. Whenever, except in criminal prosecutions, any special penalty, forfeiture, or liability is imposed on any officer for nonperformance or malperformance of official duties, the liability therefor attaches to the official bond of such officer, and to the principal and sureties thereon.

§ 63. Every officer mentioned in section fifty-five, and his deputies, and every justice of the peace, may administer and certify oaths.

§ 64. A county or township officer shall in no case absent himself from the state for a period of more than sixty days in any one year, and for no period without the consent of the board of supervisors of the county, except when on business for the state; provided, that in case of illness or urgent necessity, the board of supervisors may, on a proper showing of such illness or urgent necessity, extend the time herein limited, for the absence of any such officer, not to exceed six months.

§ 65. Sheriffs, clerks and constables, and their deputies, are prohibited from practicing law, or acting as attorneys or counselors at law, in the counties where they reside and hold office, or from having as a partner a lawyer, or anyone who acts as such, and no county officer, or his deputy, except district attorneys and treasurers, shall be eligible to the office of notary public, or perform the duties of the same.

§ 66. The board of supervisors of each county shall, on or before the first Monday in September, preceding the election of the following officers, prescribe the amount in which said officers must execute official bonds: Treasurer, county clerk, auditor, sheriff, tax-collector, district attorney, recorder, assessor, surveyor, superintendent of schools, public administrator, coroner, justice of the peace and constable. The judge or judges of the superior court shall, on or before the said first Monday of September, prescribe the amount in which each member of the board of supervisors must execute an official bond before entering upon the discharge of the duties of his office. The bonds and sureties of such officers must, before the bonds can be recorded and filed, be approved by the judge, or judges, if there be more than one, of the superior court,

All persons offered as sureties on official bonds may be examined on oath touching their qualifications, and no person can be admitted as surety on any such bond unless he is a resident and freeholder or householder within the state, and is worth in real or personal property, or both, situate in this state, the amount of his undertaking, over and above all sums for which he is already liable, exclusive of property exempt from execution and forced sale. All official bonds shall be recorded in the office of the county recorder, and then filed and kept in the office of the county clerk. The official bond of the county clerk shall, after being recorded, be filed and kept in the office of the county treasurer. The tax-collector shall also before qualifying give a bond as license collector in such sum as may be fixed by the board of supervisors, to be approved as herein provided.

§ 66a. It shall be the duty of the board of supervisors of each county, on or before the first day of November of each year, to supply the secretary of the State Agricultural Society upon blanks to be furnished by him for that purpose, statistics showing the products grown, produced or manufactured in said county, for the year preceding, and the expense thereof shall be a county charge, to be paid as other county charges against the county. [New section approved March 20, 1905. Stats. 1905, p. 476. In effect immediately.]

COUNTY TREASURER.

§ 67. The county treasurer must:

1. Receive all moneys belonging to the county, and all other moneys by law directed to be paid to him, safely keep the same, and apply and pay them out, rendering the account thereof as required by law.
2. File and keep the certificates of the auditor delivered to him when moneys are paid into the treasury.
3. Keep an account of the receipt and expenditure of all such moneys, in books provided for the purpose, in which must be entered the amount, the time when, from whom, and on what account all moneys were received by him; the amount, time when, to whom, and on what account all disbursements were made by him.
4. So keep his books that the amount received and paid out on account of separate funds or specific appropriations are exhibited in separate and distinct accounts, and the whole receipts and expenditures shown in one general or cash account.
5. Enter no moneys received for the current year on his account with the county for the past fiscal year, until after his annual settlement for the past year has been made with the county auditor.
6. Disburse the county moneys only on county warrants, issued by the county auditor, except on settlement with the state.
7. Disburse the moneys in the treasury on such warrants only when they are based on orders of the board of supervisors, or upon order of the superior court, or as otherwise provided by law.

§ 68. He must receive no money into the treasury unless accompanied by the certificate of the auditor, provided for in section one hundred and eleven.

§ 69. When any money is paid to the county treasurer he must give to the person paying the same a receipt therefor, which must forthwith be deposited with the county auditor, who must charge the treasurer therewith, and give the person paying the same a receipt.

§ 70. When a warrant is presented for payment, if there is money in the treasury for that purpose, he must pay the same and write on the face thereof "Paid," the date of payment, and sign his name thereto.

§ 71. When any warrant is presented to the treasurer for payment, and the same is not paid for want of funds, the treasurer must indorse thereon "Not paid for want of funds," with the date of presentation, and sign his name thereto, and from that time until paid the warrant bears five per cent interest per annum.

§ 72. When there are sufficient moneys in the treasury to pay the warrants drawing interest, the treasurer must give notice in some newspaper published in the county, or if none is published therein, then by written notice posted upon the courthouse door, stating therein that he is ready to pay such warrants. From the first publication or posting of such notice, such warrants cease to draw interest.

§ 73. In advertising warrants under the provisions of the preceding section in any newspaper, the treasurer must not publish the warrants in detail, but give notice only that county warrants presented for payment prior to such a date, stated in the notice, are payable. When a part only of the warrants presented for payment on the same day are payable, the treasurer must designate such payable warrants in the advertisement.

§ 74. Warrants drawn on the treasury, and properly attested, are entitled to preference as to payment out of moneys in the treasury properly applicable to such warrants, according to the order in which they were presented. The time of presenting such warrants must be noted by the treasurer, and upon receipt of moneys into the treasury not appropriated, he must set apart the same, or so much thereof as is necessary for the payment of such warrants.

§ 75. Should such warrants not be again presented for payment within sixty days from the time the notice hereinbefore provided for is given, the fund set aside for the payment of the same must be by the treasurer applied to the payment of unpaid warrants next in order of registry. The board of supervisors may, on application and presentation of warrants properly indorsed, which have been advertised, pass an order directing the treasurer to pay them out of any money in the treasury not otherwise appropriated.

§ 76. When the treasurer pays any warrant upon which any interest is due, he must note on the warrant the amount of interest paid thereon and enter on his account the amount of such interest distinct from the principal.

§ 77. The treasurer must settle his accounts relating to the collection, care and disbursement of public revenue, of whatsoever nature and kind, with the auditor, on the first Monday of each month. For the purpose of making such settlement, he must make a statement, under oath, of the amount of money or other property received prior to the period of such settlement, the sources whence the same was derived, the amount of payments or disbursements, and to whom, with the amount remaining on hand. He must, in such settlements, deposit all warrants redeemed by him, and take the auditor's receipt therefor. He must also make a full settlement of all accounts with the auditor, annually on the first Monday of January, in the presence of the supervisors.

§ 78. Each county treasurer must make a detailed report, at every regular meeting of the board of supervisors of his county, of all moneys received by him, and the disbursement thereof, and of all debts to and from the county, and of all other proceedings in his office, so that the receipts into the treasury and the amounts of disbursements, together with the debts due to and from the county, may distinctly appear.

§ 79. If any county treasurer neglect or refuse to settle or report, as required in sections seventy-seven and seventy-eight, he forfeits and must pay to the county the sum of five hundred dollars for every such neglect or refusal, and the board of supervisors must institute suits for the recovery thereof.

§ 80. If the district attorney refuse or neglect to account for and pay over money received by him, as required by the fifth subdivision of section one hundred and thirty-two, he shall be liable for such refusal or neglect upon his official bond, and the county treasurer must bring an action against him for the recovery thereof, in the name of the county, and may recover in such action, in addition to the amount so received, fifty per cent thereon by way of damages. And no order of the board of supervisors shall be necessary to bring such action. His reasonable expenses, including attorney's fees, shall be a county charge.

§ 81. The treasurer, upon receiving from the coroner, or justice of the peace acting as coroner, money found on a dead body, must place it to the credit of the county; on receiving other property in like manner, he must, within thirty days, sell it at public auction, upon reasonable public notice, and must, in like manner, place the proceeds to the credit of the county. All said moneys must be kept in a separate fund.

§ 82. If the money in the treasury is demanded within six years, by the legal representatives of the decedent, the treasurer must pay it to

them, after deducting the fees and expenses of the coroner, and of the county, in relation to the matter, or the same may be so paid at any time thereafter, upon the order of the board of supervisors.

§ 83. The county treasurer must keep all moneys belonging to this state, or to any county of this state, in his own possession, until disbursed according to law. He must not place the same in the possession of any person, to be used for any purpose; nor must he loan, or in any manner use, or permit any person to use the same, except as provided by law; but nothing in this section prohibits him from making special deposits for the safekeeping of the public moneys; but he shall be liable therefor on his official bond.

§ 84. Whenever an action, based upon official misconduct, is commenced against any county treasurer, the supervisors may, in their discretion, suspend him from office until such suit is determined, and may appoint some person to fill the vacancy, who shall qualify and give such bond as may be required by the board of supervisors.

§ 85. In case of the death of any county treasurer, his legal representatives must deliver up to the person appointed to fill the vacancy occasioned by such death, all official moneys, books, accounts, papers and documents which are or may come into their possession.

§ 86. The books, accounts and vouchers of the treasurer are at all times subject to the inspection and examination of the board of supervisors and grand jury.

§ 87. The treasurer must permit the chairman of the board of supervisors, district attorney and auditor to examine his books and count the money in the treasury, whenever they may wish to make an examination or counting.

SHERIFF.

§ 88. "Process," as used in this act, includes all writs, warrants, summons and orders of courts of justice, or judicial officers. "Notice" includes all papers and orders (except process) required to be served in any proceeding before any court, board or officer, or when required by law to be served independently of such proceeding.

§ 89. The sheriff must:

1. Preserve the peace.
2. Arrest and take before the nearest magistrate for examination all persons who attempt to commit, or who have committed, a public offense.
3. Prevent and suppress any affrays, breaches of the peace, riots and insurrections which may come to his knowledge.
4. Attend all superior courts held within his county, and obey all lawful orders and directions of all courts held within his county.

5. Command the aid of as many male inhabitants of his county as he may think necessary in the execution of these duties.

6. Take charge of and keep the county jail, and the prisoners therein.

7. Release on the record all attachments of real property, when the attachment placed in his hand has been released or discharged.

8. Indorse upon all process and notices the year, month, day, hour and minute of reception, and issue therefor to the person delivering it, on payment of fees, a certificate showing the names of the parties, title of paper and time when received.

9. Serve all process and notices in the manner prescribed by law.

10. Certify, under his hand, upon process or notices, the manner and time of service, or if he fails to make service, the reason of his failure, and return the same without delay.

§ 90. When process or notices are returnable to another county, he may inclose such process or notice in an envelope, addressed to the officer from whom the same emanated, and deposit it in the postoffice, prepaying postage.

§ 91. The return of the sheriff upon process or notices is prima facie evidence of the facts in such return stated.

§ 92. If a sheriff does not return a process or notice in his possession, with the necessary indorsement thereon, without delay, he is liable to the party aggrieved for the sum of two hundred dollars, and for all damages sustained by him.

§ 93. If the sheriff to whom a writ of execution is delivered neglects or refuses, after being required by the creditor or his attorney, the fees having first been paid or tendered, to levy upon or sell any property of the party charged in the writ, which is liable to be levied upon and sold, he is liable to the creditor for the value of such property.

§ 94. If he neglects or refuses to pay over, on demand, to the person entitled thereto, any money which may come into his hands by virtue of his office (after deducting all legal fees), the amount thereof, with twenty-five per cent damages, and interest at the rate of ten per cent per month, from the time of demand, may be recovered by such person.

§ 95. A sheriff who suffers the escape of a person arrested in a civil action, without the consent or connivance of the party in whose behalf the arrest or imprisonment is made is liable as follows:

1. When the arrest is upon an order to hold to bail, or upon a surrender in exoneration of bail before judgment, he is liable to the plaintiff as bail.

2. When the arrest is on an execution or commitment to enforce the payment of money, he is liable for the amount expressed in the execution or commitment.

3. When the arrest is on an execution or commitment other than to enforce the payment of money, he is liable for the actual damages sustained.

4. Upon being sued for damages for an escape or rescue, he may introduce evidence in mitigation and exculpation.

§ 96. He is liable for the rescue of a person arrested in a civil action, equally as for an escape.

§ 97. An action cannot be maintained against the sheriff for a rescue, or for an escape of a person arrested upon an execution or commitment, it, after his rescue or escape, and before the commencement of the action, the prisoner returns to the jail, or is retaken by the sheriff.

§ 98. No direction or authority by a party or his attorney to a sheriff, in respect to the execution of process or return thereof, or to any act or omission relating thereto, is available to discharge or excuse the sheriff from a liability for neglect or misconduct, unless it is contained in a writing, signed by the attorney of the party, or by the party, if he has no attorney.

§ 99. When the sheriff is committed, under an execution or commitment, for not paying over money received by him by virtue of his office, and remains committed for sixty days, his office is vacant.

§ 100. A sheriff or other ministerial officer is justified in the execution of, and must execute, all process and orders regular on their face, and issued by competent authority, whatever may be the defect in the proceedings upon which they were issued.

§ 101. The officer executing process must then, and at all times subsequent, so long as he retains it, upon request, show the same, with all papers attached, to any person interested therein.

§ 102. The sheriff in attendance upon court must act as the crier thereof, call the parties and witnesses, and all other persons bound to appear at the court, and make proclamation of the opening and adjournment of the court, and of any other matter under its direction.

§ 103. Service of a paper, other than process, upon the sheriff may be made by delivering it to him or to one of his deputies, or to a person in charge of the office during office hours; or, if no such person be there, by leaving it in a conspicuous place in the office. When any process remains with the sheriff unexecuted, in whole or in part, at the time of his death, resignation of office, or at the expiration of his term of office, said process shall be executed by his successor or successors in office; and when the sheriff sells real estate, under and by virtue of an execution or order of court, he or his successors in office shall execute and deliver to the purchaser or purchasers all such deeds and conveyances as are required by law and necessary for the purpose, and such

deeds and conveyances shall be as valid in law as if they had been executed by the sheriff who made the sale.

§ 104. When the sheriff is a party to an action or proceeding, the process and orders therein, which it would otherwise be the duty of the sheriff to execute, must be executed by the coroner of the county; provided, when any action is begun against the sheriff, all process and orders may be served by any person, a citizen of the United States over the age of eighteen years, in the manner provided in the Code of Civil Procedure.

§ 105. Process or orders in an action or proceeding may be executed by a person residing in the county, designated by the court, or the judge thereof, and denominated an elisor, in the following cases:

1. When the sheriff and coroner are both parties;
2. When either of these officers is a party, and the process is against the other; and
3. When either of these officers is a party, and there is a vacancy in the office of the other, or where it appears, by affidavit, to the satisfaction of the court, in which the proceeding is pending, or the judge thereof, that both of these officers are disqualified, or by reason of any bias, prejudice or other cause, would not act promptly or impartially.

When process is delivered to an elisor, he must execute and return it in the same manner as the sheriff is required to execute similar process. Whenever process is executed, or any act performed by a coroner or elisor, in the cases provided by law in that behalf, such coroner or elisor shall be entitled to receive a reasonable compensation, to be fixed by the court, to be paid by the plaintiff in case of the summoning of jurors to complete the panel, and by the person or party requiring the service in all other cases in private action. If rendered at the instance of the people, it shall be audited and paid as a county charge.

§ 106. The sheriff must perform such other duties as are required by law.

COUNTY CLERK.

§ 107. The county clerk must:

1. Take charge of and safely keep, or dispose of, according to law, all books, papers and records which may be filed or deposited in his office.
2. Act as clerk of the board of supervisors and as clerk of the superior court, and attend each session thereof, and upon the judge at chambers, when required.
3. Issue all process and notices required to be issued; enter a synopsis of all orders, judgments and decrees proper to be entered, unless the court shall order them to be entered at length; keep in the superior court a docket, in which must be entered the title of each cause, with the date of its commencement; a memorandum of every subsequent proceeding therein, with date thereof, and a list of all the fees charged.
4. Keep for the superior court an index of all suits, labeled "General Index—Plaintiffs," each page of which must be divided into seven col-

umns, under their respective heads, alphabetically arranged, as follows: "Number of Suit," "Plaintiffs," "Defendants," "Date of Judgment," "Number of Judgment," "Page of Entry of Judgment in Judgment Book," "Page of Minute Book"; also an index, labeled "General Index—Defendants," each page of which must be divided into seven columns, under their respective heads, alphabetically arranged, as follows: "Number of Suit," "Defendants," "Plaintiffs," "Date of Judgment," "Number of Judgment," "Page of Entry of Judgment in Judgment Book," "Page in Order Book"; keep an index of the names of persons naturalized.

§ 108. He must keep such other records and perform such other duties as are prescribed by law.

COUNTY AUDITOR.

§ 109. The auditor must issue warrants as provided in section 41, on the county treasurer, in favor of all persons entitled thereto, in payment of all claims and demands chargeable against the county, which have been legally examined, allowed and ordered paid by the board of supervisors. The auditor must also issue warrants on the county treasurer for all debts and demands against the county, when the amounts are fixed by law, or authorized by law to be allowed by some person or tribunal other than the board of supervisors.

§ 110. All warrants must distinctly specify the liability for which they are drawn, and when it accrued.

§ 111. The auditor must examine and settle the accounts of all persons or officers indebted to the county, or holding moneys payable into the county treasury, and must certify the amount to the treasurer, and upon the presentation and filing of the treasurer's receipt therefor, give to such persons a discharge, and charge the treasurer with the amount received by him.

§ 112. The auditor must keep accounts current with the treasurer, and when any person deposits with the auditor any receipt given by the treasurer for any money paid into the treasury, the auditor must file such receipt, and charge the treasurer with the amount thereof.

§ 113. All warrants issued by the auditor during each year, commencing with the first Monday after the first day of January, must be numbered consecutively, and the number, date and amount of each, and the name of the person to whom payable, and the purpose for which drawn, must be stated thereon; and they must, at the time they are issued, be registered by him, and after such warrants have remained uncalled for for two years they shall be canceled.

§ 114. The auditor must, between the first and tenth day of each month, examine the books of the treasurer and see that the same have been correctly kept.

§ 115. The chairman of the board of supervisors, district attorney and auditor, must, at least once in each month, count the money in the county treasury, and make and verify in duplicate, statements showing:

1. The amount of money that ought to be in the treasury.
2. The amount and kind of money actually therein.

§ 116. They must file one of the statements in the office of the county clerk, and the auditor must post and maintain the other in his office for at least one month thereafter.

§ 117. The auditor and treasurer of each county must, on the first Monday in February, May, August, and November, and at such other times as the board of supervisors may require, make a joint statement to the board of supervisors, showing the whole amount of collections (stating particularly the source of each portion of the revenue) from all sources paid into the county treasury; the funds among which the same are distributed, and the amount to each; the total amount of warrants drawn and paid, and on what fund; the total amount of warrants drawn and unpaid, and accounts or claims audited or allowed and unpaid, and the fund out of which they are to be paid, and generally make a full and specific showing of the financial condition of the county. The board of supervisors shall cause to be prepared, and shall publish each year a statistical report showing in compendious form all the financial transactions of the county for the last fiscal year, exhibiting separately the receipts and expenditures by or on account of each office, board, commission, institution, court, and road district and school district, and classifying the principal items of income and expenditure, so as to show the financial transactions and the financial condition of the county. [Amendment approved March 23, 1901. Stats. 1901, p. 686. In effect immediately.]

§ 118. The auditor must discharge such other duties as are required by law.

COUNTY RECORDER.

§ 119. The recorder must procure such books for records as the business of his office requires, but orders for the same must first be obtained from the board of supervisors. The books used may contain printed forms of deeds, mortgages or other instruments of general use. He has the custody of, and must keep, all books, records, maps and papers deposited in his office.

§ 120. He must, upon the payment of his fees for the same, record, separately, in large and well-bound separate books, in a fair hand:

1. Deeds, grants, transfers and mortgages of real estate, releases of mortgages, powers of attorney to convey real estate, and leases which have been acknowledged and approved.
2. Mortgages of personal property.
3. Certificates of marriage and marriage contracts.

4. Wills admitted to probate.
5. Official bonds.
6. Notice of mechanics' liens.
7. Transcripts of judgments, which by law are made liens upon real estate.
8. Notices of attachments upon real estate.
9. Notices of the pendency of an action affecting real estate, the title thereto, or the possession thereof.
10. Instruments describing or relating to the separate property of married women.
11. Births and deaths; and,
12. Such other writings as are required or permitted by law to be recorded.

§ 121. Every recorder must keep:

1. An index of deeds, grants and transfers, labeled "Grantors," each page divided into four columns, headed, respectively: "Names of Grantors," "Names of Grantees," "Date of Deeds, Grants or Transfers," and "Where Recorded."

2. An index of deeds, labeled "Grantees," each page divided into four columns, headed, respectively: "Names of Grantees," "Names of Grantors," "Date of Deeds, Grants or Transfers," and "Where Recorded."

3. Two indices of mortgages, labeled, respectively: "Mortgagors of Real Property," "Mortgagors of Personal Property," with the pages thereof divided into five columns, headed, respectively: "Names of Mortgagors," "Names of Mortgagees," "Date of Mortgages," "Where Recorded," "When Discharged."

4. Two indices of mortgages, labeled, respectively: "Mortgagees of Real Property," "Mortgagees of Personal Property," with the pages thereof divided into five columns, headed, respectively: "Names of Mortgagors," "Names of Mortgagees," "Date of Mortgages," "Where Recorded," "When Discharged."

5. Two indices of releases of mortgages, labeled, respectively: "Releases of Mortgages of Real Property—Mortgagors," "Releases of Mortgages of Personal Property—Mortgagees," with pages thereof divided into six columns, headed, respectively: "Parties Releasing," "To Whom Releases are Given," "Date of Releases," "Where Releases are Recorded," "Date of Mortgages Released," "Where Mortgages Released are Recorded."

6. Two indices of releases of mortgages, labeled, respectively: "Releases of Mortgages of Real Property—Mortgagees," "Releases of Mortgages of Personal Property—Mortgagors," with pages thereof divided into four columns, headed, respectively: "Parties Whose Mortgages are Released," "Parties Releasing," "Date of Releases," "Where Recorded."

7. An index of powers of attorney, labeled: "Powers of Attorney," each page divided into five columns, headed, respectively: "Names of Parties Executing the Powers," "To Whom Powers are Executed," "Date of Powers," "Date of Recording," "Where Powers are Recorded."

8. An index of leases, labeled: "Leases—Lessors," each page divided into four columns, headed, respectively: "Names of Lessors," "Names of Lessees," "Date of Leases," "When and Where Recorded."

9. An index of leases, labeled: "Leases—Lessees," each page divided into four columns, headed, respectively: "Names of Lessees," "Names of Lessors," "Date of Leases," "When and Where Recorded."

10. An index of marriage certificates, labeled: "Marriage Certificates—Men," each page divided into six columns, headed, respectively: "Men Married," "To Whom Married," "When Married," "By Whom Married," "Where Married," "Where Certificates are Recorded."

11. An index of marriage certificates, labeled: "Marriage Certificates—Women," each page divided into six columns, headed, respectively: "Women Married" (and under this head placing the family names of the women), "To Whom Married," "When Married," "By Whom Married," "Where Married," "Where Certificates are Recorded."

12. An index of assignments of mortgages and leases, labeled: "Assignments of Mortgages and Leases—Assignors," each page divided into five columns, headed, respectively: "Assignors," "Assignees," "Instruments Assigned," "Date of Assignment," "When and Where Recorded."

13. An index of assignments of mortgages and leases, labeled: "Assignments of Mortgages and Leases—Assignees," each page divided into five columns, headed, respectively: "Assignees," "Assignors," "Instruments Assigned," "Date of Assignment," "When and where Recorded."

14. An index of wills, labeled: "Wills," each page divided into four columns, headed, respectively: "Names of Testators," "Date of Wills," "Date of Probate," "When and Where Recorded."

15. An index of official bonds, labeled: "Official Bonds," each page divided into five columns, headed, respectively: "Names of Officers," "Names of Offices," "Date of Bonds," "Amount of Bonds," "When and Where Recorded."

16. An index of notices of mechanics' liens, labeled: "Mechanics' Liens," each page divided into three columns, headed, respectively: "Parties Against Whom Claimed," "Parties Claiming Liens," "Notices—When and Where Recorded."

17. An index to transcripts of judgments, labeled: "Transcripts of Judgments," each page divided into seven columns, headed, respectively: "Judgment Debtors," "Judgment Creditors," "Amount of Judgments," "Where Recovered," "When Recovered," "When Transcript Filed," "When Judgment Satisfied."

18. An index of attachments, labeled: "Attachments," each page divided into six columns, headed, respectively: "Parties Against Whom Attachments are Issued," "Parties Issuing Attachments," "Notices of Attachments," "When Recorded," "Where Recorded," "When Attachments Discharged."

19. An index of notices of the pendency of actions, labeled: "Notices of Actions," each page divided into three columns, headed, respectively, "Parties to the Action," "Notices—When Recorded," "Where Recorded."

20. An index of the separate property of married women, labeled: "Separate Property," each page divided into five columns, headed, re-

spectively: "Names of Married Women," "Names of Their Husbands," "Nature of Instruments Recorded," "When Recorded," "Where Recorded."

21. An index to the register of births and deaths.

22. Such other books of record and indices as are or may be required by law.

23. An index of decrees of distribution in probate, labeled: "Decrees of Distribution," divided into six columns, headed, respectively: "Whose Estate," "Name of Administrator," "Names of Distributees" "Date of Decree," "In What Court," "Where Recorded."

§ 122. The recorder must keep in his office a book, to be called "Certificates of Sales," and record therein all certificates of sales of real estate sold under execution, or under order made in any judicial proceeding. He must also prepare an index thereto, in which, in separate columns, he must enter the names of the plaintiff in the execution, the defendant in the execution, the purchaser at the sale, and the date of the sale.

§ 123. The recorder must file and record with the record of deeds, grants, and transfers, certified copies of final judgments or decrees partitioning or affecting the title or possession of real property, any part of which is situate in the county of which he is recorder.

§ 124. Every such certified copy of partition, from the time of filing the same with the recorder for record, imparts notice to all persons of the contents thereof; and subsequent purchasers, mortgagees, and lienholders purchase and take with like notice and effect as if such copy of decree was a duly recorded deed, grant or transfer.

§ 125. The recorder may keep in the same volume any two or more of the indices mentioned in section one hundred and twenty-one; but the several indices must be kept distinct from each other, and the volume distinctly marked on the outside in such a way as to show all the indices kept therein. The names of the parties in the first column in the several indices must be arranged in alphabetical order, and when a conveyance is executed by a sheriff, the name of the sheriff and the party charged in the execution must both be inserted in the index; and when an instrument is recorded to which an executor, administrator, or trustee is a party, the name of such executor, administrator, or trustee, together with the name of the testator, or intestate, or party for whom the trust is held, must be inserted in the index.

§ 126. When any instrument, paper, or notice, authorized by law to be recorded, is deposited in the recorder's office for record, the recorder must indorse upon the same the time when it was received, noting the year, month, day, hour and minute of its reception, the amount of fees for recording, and must record the same without delay, together with the acknowledgments, proofs, and certificates, written upon or annexed to the same, with the plats, surveys, schedule, and other papers thereto annexed, in the order in which the same were received for record,

and must note at the foot of the record the exact time of its reception, and the name of the person at whose request it was recorded.

§ 127. He must also indorse upon each instrument, paper, or notice the time when, the book and pages in which it is recorded, and must thereafter deliver it to the party leaving the same for record, or upon his order.

§ 128. It shall be the duty of the recorder, upon the payment or tender of the fees therefor, to take and certify the acknowledgment of all instruments authorized by law to be acknowledged.

§ 129. If any recorder to whom an instrument, proved or acknowledged according to law, or any paper or notice which may by law be recorded, is delivered for record:

1. Neglects or refuses to record such instrument, paper, or notice within a reasonable time after receiving the same; or,
2. Records any instrument, paper, or notice, willfully or negligently, untruly, or in any other manner than is hereinbefore directed; or,
3. Neglects or refuses to keep in his office such indices as are required by this article, or to make the proper entries therein; or,
4. Alters, changes, or obliterates any records deposited in his office, or inserts, any new matter therein, he is liable to the party aggrieved for three times the amount of the damages which may be occasioned thereby.

§ 130. He shall not record any instrument, or file any paper or notice, or furnish any copy, or render any service connected with his office, until his fees for the same, as prescribed by law, are, if demanded, paid or tendered.

§ 131. All books of record, maps, charts, surveys, and other papers on file in the recorder's office, must, during office hours, be open for inspection by any person, without charge; and the recorder must arrange the books of record and indices in his office in such suitable places as to facilitate their inspection.

DISTRICT ATTORNEY.

§ 132. The district attorney is the public prosecutor, and must:

1. Attend the courts, and conduct, on behalf of the people, all prosecutions for public offenses.
2. Institute proceedings before the magistrates for the arrest of persons charged with or reasonably suspected of public offenses, when he has information that any such offenses have been committed; and for that purpose, when not engaged in criminal proceedings in the superior court, or in civil cases on behalf of the people, must attend upon the magistrates in cases of arrest, when required by them, and attend before, and give advice to the grand jury, whenever cases are presented to them for their consideration.

3. Draw all indictments and informations, defend all suits brought in his county, against the state or his county wherever brought, prosecute all recognizances forfeited in the courts of record, and all actions for the recovery of debts, fines, penalties and forfeitures accruing to the state or his county.

4. Deliver receipts for money or property received in his official capacity, and file duplicates thereof with the county treasurer.

5. On the first Monday of each month file with the auditor an account, verified by his oath, of all moneys received by him in his official capacity during the preceding month, and at the same time pay them over to the county treasurer.

6. Give, when required, and without fee, his opinion in writing, to county, district, and township officers, on matters relating to the duties of their respective offices.

§ 133. The district attorney is the legal adviser of the board of supervisors. He must attend their meetings, when required, and must attend and oppose all claims and accounts against the county, when he deems them unjust and illegal.

§ 134. The district attorney, except for his own services, must not present any claim, account or demand for allowance against the county, nor in any way advocate the relief asked on any claim or demand made by another.

COUNTY SURVEYOR.

§ 135. The county surveyor must be a licensed land surveyor of the state, and must make any survey that may be required by order of court or of the board of supervisors, or upon application of any person; keep a correct and fair record of all surveys made by him, number them in the order made, and preserve a copy of the field-notes and calculations of each survey, and indorse thereon its proper number; a copy of the same, and a fair and accurate plat, together with a certificate of survey, must, upon application, be furnished by him to any person, upon payment of the fees allowed by law.

§ 136. Any person owning or claiming lands which are divided by county lines, and wishing to have the same surveyed, may apply to the surveyor of any county in which any part of such land is situated, and on such application being made, the surveyor must make the survey, which is as valid as though the lands were situated entirely within the county.

§ 137. When land, the title to which is in dispute before any court, is divided by a county line, the court making an order of survey may direct the order to the surveyor of any county in which any part of the land is situated. In all surveys the courses must be expressed according to the true meridian, and the variation of the magnetic meridian from the true meridian must be expressed on the plat, with the date of the survey.

§ 138. Each county surveyor must, when required, aid and assist the surveyor general in making surveys within the county. When the county surveyor is interested in any land, the title to which is in dispute, and a survey thereof is necessary, the court must direct the survey to be made by some disinterested person, and the person so appointed is for that purpose authorized to administer and certify oaths. He must return such survey, verified by his affidavit annexed thereto, and receive for his services the same fees as the county surveyor would be entitled to for similar service.

§ 139. The county surveyor shall copy, plat, or trace all maps filed for record in the office of the county recorder of the county for which he shall be elected, and shall be ex officio deputy county recorder for said county for such purposes, at the cost of the party filing the same for record; provided, however, that all maps and plats filed by a licensed land surveyor, and such other maps and plats as are filed and are thereby made a record, are exempt from the provisions of this act. The county surveyor shall plat, trace, blue-print, or otherwise make all county, township, road, district, and all other maps, and all assessor's block books, for the county of which he is surveyor. All such maps which are platted, traced, blue-printed, or otherwise made as aforesaid, shall be filed in the county surveyor's office, together with all data obtained by the county surveyor from other sources, and the same thereafter shall become the property of the county.

§ 140. The county surveyor shall make such surveys of county roads, and perform such other engineering work as the board of supervisors may direct. All such maps and field-notes of surveys shall be filed in the office of the county surveyor, and the same shall thereafter be and remain the property of the county. It shall be the duty of the county surveyor to advise the board of supervisors regarding all engineering work, and to perform such engineering work for the county as may be required by the board of supervisors.

§ 141. The board of supervisors of each county shall provide, for the use of the county surveyor, a suitable office, office furniture, heat, light, and care for the same, office and record books, and other necessary material, also all necessary expenses and transportation on work performed in the field. In lieu of fees, as now provided by law, the county surveyor shall receive such compensation as the board of supervisors may allow, not to exceed ten dollars per day for all work performed for the county, and in addition thereto, all necessary expenses and transportation on work performed in the field.

COUNTY CORONER.

§ 142. The coroner must hold inquests as prescribed by chapter II, Title XII. Part II, of the Penal Code. The coroner, or other officer holding the inquest upon the body of a deceased person, may subpoena a chemist to make an analysis of the contents of the stomach or of the

tissues of the body, or a physician or surgeon to inspect the body, or hold a post-mortem examination of the deceased, and give a professional opinion as to the cause of death, and shall cause the testimony given by the witness to be reduced to writing, under his direction, and may, upon the written order of the district attorney, employ a clerk or stenographer for such purpose, at the same compensation allowed to stenographers in the superior court of the county; and when such testimony is taken down by a stenographer, his transcription thereof, duly certified to, shall constitute the deposition of such witness.

§ 143. When an inquest is held by the coroner, and no other person takes charge of the body of deceased, he must cause it to be decently interred; and if there is not sufficient property belonging to the estate of the deceased to pay the necessary expenses of the burial, the expenses are a legal charge against the county.

§ 144. It shall be the duty of the coroner of each county to keep an official register, to be labeled "Coroner's Register," in which he shall enter the date of holding all inquests, the name of the deceased, when known, and when not, such description of the deceased as may be sufficient for identification; property found on the person of deceased, if any; what disposition was made of the same by the coroner; the cause of death, when known, and such other information as may pertain to the identity of the deceased.

§ 145. The coroner must, within thirty days after an inquest upon a dead body, deliver to the county treasurer, or the legal representatives of the deceased, any money or other property found upon the body, and at the same time file an affidavit with the treasurer, showing:

1. The amount of money or other property belonging to the estate of the deceased person which has come into his possession since his last statement.

2. The disposition made of such property.

3. If the coroner, or any justice of the peace acting as coroner, fail to deliver to the treasurer, within thirty days after any inquest upon a dead body, all money and property found upon such body, unless claimed in the mean time by the public administrator, or other legal representative of the decedent, as required by this section, the district attorney must proceed against the coroner or justice of the peace acting as coroner, to recover the same, by civil action, in the name of the county.

§ 146. If the office of coroner is vacant, or he is absent, or unable to attend, the duties of his office may be discharged by any justice of the peace of the county, with the like authority, and subject to the same obligations and penalties as the coroner.

§ 147. In the cases specified in section one hundred and four, the coroner must discharge the duties of sheriff.

§ 148. The assessor must perform such duties as are prescribed in Title IX, Part III, of the Political Code, and such other duties as are

required by law; provided, that where any salary is allowed to the assessor, by law, then where such officer is charged, or to be charged, with the making of maps or block books, he shall be allowed the actual cost of making the same, and must file with the county auditor a sworn statement, monthly, showing in detail the names of persons, and amounts paid to each for such expense, and the assessor must thereupon pay over and account to the county, or city and county, for the difference between any amount allowed for such purpose, and the amount actually expended by him therefor.

§ 149. The tax collector must perform such duties as are prescribed in Title IX, Part III, of the Political Code, and as license collector shall collect all county licenses, and shall perform such other duties as are required by law. He shall, at least once a month and oftener, in his discretion, pay the public money in his hands into the county treasury, taking the receipt of the treasurer therefor.

§ 150. The school superintendent must perform such duties as are prescribed in Title III, Part III, of the Political Code, and shall perform such other duties as are required by law.

§ 151. The public administrator must perform such duties as are prescribed in chapter XIII, Title XI, Part III, of the Code of Civil Procedure, and shall perform such other duties as are required by law.

§ 152. It shall be the duty of the public administrator to keep a book, to be labeled "Register of Public Administrator," in which he shall enter the name of every deceased person on whose estate he shall administer, the date of granting letters, money received, the property appraised and its value, proceeds of all sales of property, the amount of his fees, the expenses of administration, the amount of estate after all charges and expenses have been paid, the disposition of property on distribution, the date of discharge of administrator, and such other matters as may be necessary to give a full and complete history of each estate administered by him. The publication of the semi-annual report required to be made by the public administrator shall be a county charge.

§ 152½. It shall be the duty of the livestock inspector, acting under the supervision of the state veterinarian, to enforce all laws of the state of California, and all orders and ordinances of the board of supervisors of his county pertaining to the health and sanitary surroundings of all livestock in his county, and for that purpose he is hereby authorized and empowered, by and with the approval of the board of supervisors, to establish, maintain, and enforce such quarantine, sanitary and other regulations as he may deem proper and necessary. He shall give to the duties of his office such time and attention as may be necessary to secure the general protection and advancement of all matters pertaining to the health and sanitary condition of the domestic livestock

of his county. [New section added March 21, 1905. Stats. 1905, p. 723. In effect in sixty days.]

§153. Constables must attend the court of justices of the peace within their townships whenever so required, and within their counties execute, serve and return all writs, processes and notices directed or delivered to them by justices of the peace of such county, or by any competent authority; provided, however, that no constable shall have jurisdiction or authority to serve any writ, notice, or other process issued by any justice or justice's court of any township other than the justice or justice's court of the township in and for which he may be constable without the boundaries of the township in and for which he is constable, and any service by a constable of any writ, notice, or other process issued by any justice or justice's court of any township other than the township in and for which he is duly elected and qualified constable, outside of the boundaries of the township in and for which he is such constable, shall be void. Constables shall charge and collect for their services such fees as are now or may hereafter be allowed. [Amendment approved March 20, 1905. Stats. 1905, p. 393.]

§154. All provisions of sections eighty-eight, eighty-nine, ninety, ninety-one, ninety-two, ninety-three, ninety-four, ninety-five, ninety-six, ninety-seven, ninety-eight, ninety-nine, one hundred, one hundred and one, one hundred and two, and one hundred and three, except the fourth and sixth subdivisions of sections eighty-nine, apply to constables, and govern their powers, duties, and liabilities.

§155. Justices of the peace must perform such duties as are prescribed in Title XI, Part II, of the Code of Civil Procedure, and such other duties as are prescribed by law.

§156. The salaries of officers must be paid monthly from the county salary fund of the treasury, on the warrant of the auditor.

§157. For the purpose of regulating the compensation of all officers herein provided for, the several counties of this state are hereby classified, according to their population (as ascertained and determined in section 10), as follows, to wit:

All counties containing a population of three hundred thousand and over shall belong to and be known as counties of the first class.

Counties containing a population of one hundred and fifty thousand and under three hundred thousand shall belong to and be known as counties of the second class.

Counties containing a population of one hundred thousand and under one hundred and fifty thousand shall belong to and be known as counties of the third class.

Counties containing a population of fifty thousand and under one hundred thousand shall belong to and be known as counties of the fourth class.

Counties containing a population of forty thousand and under fifty thousand shall belong to and be known as counties of the fifth class.

Counties containing a population of thirty-eight thousand and under forty thousand shall belong to and be known as counties of the sixth class.

Counties having a population of thirty-six thousand and under thirty-eight thousand shall belong to and be known as counties of the seventh class.

Counties having a population of thirty-five thousand four hundred and under thirty-six thousand shall belong to and be known as counties of the eighth class.

Counties having a population of thirty-five thousand and under thirty-five thousand four hundred shall belong to and be known as counties of the ninth class.

Counties having a population of twenty-seven thousand four hundred and under thirty-five thousand shall belong to and be known as counties of the tenth class.

Counties having a population of twenty-seven thousand and under twenty-seven thousand four hundred shall belong to and be known as counties of the eleventh class.

Counties having a population of twenty-four thousand and under twenty-seven thousand shall belong to and be known as counties of the twelfth class.

Counties having a population of twenty-one thousand and under twenty-four thousand shall belong to and be known as counties of the thirteenth class.

Counties having a population of twenty thousand and under twenty-one thousand shall belong to and be known as counties of the fourteenth class.

Counties having a population of nineteen thousand five hundred and under twenty thousand shall belong to and be known as counties of the fifteenth class.

Counties having a population of nineteen thousand and under nineteen thousand five hundred shall belong to and be known as counties of the sixteenth class.

Counties having a population of eighteen thousand five hundred and under nineteen thousand shall belong to and be known as counties of the seventeenth class.

Counties having a population of eighteen thousand two hundred and under eighteen thousand five hundred shall belong to and be known as counties of the eighteenth class.

Counties having a population of eighteen thousand and under eighteen thousand two hundred shall belong to and be known as counties of the nineteenth class.

Counties having a population of seventeen thousand eight hundred and under eighteen thousand shall belong to and be known as counties of the twentieth class.

Counties having a population of seventeen thousand five hundred and under seventeen thousand eight hundred shall belong to and be known as counties of the twenty-first class.

Counties having a population of seventeen thousand three hundred and under seventeen thousand five hundred and fifty shall belong to and be known as counties of the twenty-second class.

Counties having a population of seventeen thousand and under seventeen thousand three hundred shall belong to and be known as counties of the twenty-third class.

Counties having a population of sixteen thousand seven hundred and fifty and under seventeen thousand shall belong to and be known as counties of the twenty-fourth class.

Counties having a population of sixteen thousand five hundred and under sixteen thousand seven hundred and fifty shall belong to and be known as counties of the twenty-fifth class.

Counties having a population of sixteen thousand four hundred and seventy-five and under sixteen thousand five hundred shall belong to and be known as counties of the twenty-sixth class.

Counties having a population of sixteen thousand and under sixteen thousand four hundred and seventy-five shall belong to and be known as counties of the twenty-seventh class.

Counties having a population of fifteen thousand seven hundred and fifty and under sixteen thousand shall belong to and be known as counties of the twenty-eighth class.

Counties having a population of fifteen thousand and under fifteen thousand seven hundred and fifty shall belong to and be known as counties of the twenty-ninth class.

Counties having a population of fourteen thousand and under fifteen thousand shall belong to and be known as counties of the thirtieth class.

Counties having a population of thirteen thousand and under fourteen thousand shall belong to and be known as counties of the thirty-first class.

Counties having a population of twelve thousand and under thirteen thousand shall belong to and be known as counties of the thirty-second class.

Counties having a population of eleven thousand one hundred and seventy-five and under twelve thousand one hundred shall belong to and be known as counties of the thirty-third class.

Counties having a population of eleven thousand one hundred and fifty and under eleven thousand one hundred and seventy-five shall belong to and be known as counties of the thirty-fourth class.

Counties having a population of eleven thousand and under eleven thousand one hundred and fifty shall belong to and be known as counties of the thirty-fifth class.

Counties having a population of ten thousand and under eleven thousand shall belong to and be known as counties of the thirty-sixth class.

Counties having a population of nine thousand seven hundred and fifty and under ten thousand shall belong to and be known as counties of the thirty-seventh class.

Counties having a population of nine thousand five hundred and under nine thousand seven hundred and fifty shall belong to and be known as counties of the thirty-eighth class.

Counties having a population of nine thousand and under nine thousand five hundred shall belong to and be known as counties of the thirty-ninth class.

Counties having a population of eight thousand seven hundred and fifty and under nine thousand shall belong to and be known as counties of the fortieth class.

Counties having a population of eight thousand and under eight thousand seven hundred and fifty shall belong to and be known as counties of the forty-first class.

Counties having a population of seven thousand and under eight thousand shall belong to and be known as counties of the forty-second class.

Counties having a population of six thousand five hundred and under seven thousand shall belong to and be known as counties of the forty-third class.

Counties having a population of six thousand two hundred and fifty and under six thousand five hundred shall belong to and be known as counties of the forty-fourth class.

Counties having a population of six thousand and under six thousand two hundred and fifty shall belong to and be known as counties of the forty-fifth class.

Counties having a population of five thousand five hundred and under six thousand shall belong to and be known as counties of the forty-sixth class.

Counties having a population of five thousand one hundred and under five thousand five hundred shall belong to and be known as counties of the forty-seventh class.

Counties having a population of five thousand and under five thousand one hundred shall belong to and be known as counties of the forty-eighth class.

Counties having a population of four thousand seven hundred and under five thousand shall belong to and be known as counties of the forty-ninth class.

Counties having a population of four thousand six hundred and under four thousand seven hundred shall belong to and be known as counties of the fiftieth class.

Counties having a population of four thousand five hundred and under four thousand six hundred shall belong to and be known as counties of the fifty-first class.

Counties having a population of four thousand three hundred and eighty and under four thousand five hundred shall belong to and be known as counties of the fifty-second class.

Counties having a population of four thousand two hundred and under four thousand three hundred and eighty shall belong to and be known as counties of the fifty-third class.

Counties having a population of four thousand and under four thousand two hundred shall belong to and be known as counties of the fifty-fourth class.

Counties having a population of two thousand two hundred and under four thousand shall belong to and be known as counties of the fifty-fifth class.

Counties having a population of two thousand and under two thousand two hundred shall belong to and be known as counties of the fifty-sixth class.

Counties having a population of under two thousand shall belong to and be known as counties of the fifty-seventh class. [Amendment approved March 23, 1901. Stats. 1901, 687. In effect 12 M. on first Monday after January 1, 1903.]

§ 158. In counties of the first class the officers shall receive, as compensation for the services required of them by law, or by virtue of their office, the salaries and fees fixed by law as compensation; provided, that this shall not be construed as adding any additional compensation to any officer; provided, however, that the sheriff shall also be allowed mileage for the service of any paper required by law to be served, at the rate of fifteen cents per mile for one way only, to be paid by the person requiring such service.

§ 159. In counties of the second class the county and township officers shall receive, as compensation for the services required of them by law, the following salaries, to wit:

1. The county clerk, three thousand six hundred dollars per annum; provided, that in counties of this class there shall be and there hereby is allowed to the county clerk the following clerks and deputies, who shall be appointed by the county clerk, and shall be paid salaries as follows: One chief deputy at a salary of one hundred and fifty dollars per month; one deputy who shall be registry clerk at a salary of one hundred and thirty-five dollars per month; one deputy who shall be an assistant registry clerk at a salary of one hundred dollars per month; one deputy who shall be clerk of the board of supervisors, at a salary of one hundred and twenty-five dollars per month; nine deputies who shall be courtroom clerks, at a salary of one hundred and fifteen dollars each per month; one deputy who shall be judgment clerk, at a salary of one hundred and twenty-five dollars per month; one deputy who shall be an assistant judgment clerk, at a salary of one hundred dollars per month; one deputy who shall be a file clerk, at a salary of one hundred dollars per month; one deputy who shall be an index clerk, at a salary of one hundred dollars per month; one deputy who shall be in charge of the criminal records, at a salary of one hundred dollars per month; two deputies at a salary of one hundred dollars each per month; one deputy who shall be assistant clerk of the board of supervisors, at a salary of one hundred dollars per month; one deputy who shall be a stenographer, at a salary of one hundred dollars per month; one deputy who shall be a stenog-

rapher for the board of supervisors, at a salary of one hundred dollars per month; one deputy who shall be miscellaneous department clerk, at a salary of one hundred and fifteen dollars per month; one deputy at a salary of one hundred and fifteen dollars per month; six deputies, at a salary of seventy-five dollars each per month, for not exceeding one month for any one year. The salaries of the deputies and clerks herein provided for shall be paid by said county in monthly installments at the same time, in the same manner and out of the same fund as the salary of the county clerk is paid.

2. The sheriff, four thousand dollars per annum; provided, that in counties of this class there shall be and there hereby is allowed to the sheriff an under-sheriff and the following deputies and stenographers, who shall be appointed by the sheriff of said county, and shall be paid salaries as follows, to wit: One under-sheriff, at a salary of one hundred and fifty dollars per month; one deputy who shall be a bookkeeper, at a salary of one hundred and twenty-five dollars per month; one deputy, who shall be an assistant bookkeeper, at a salary of one hundred and ten dollars per month; one deputy at a salary of one hundred and twenty-five dollars per month; ten deputies at a salary of one hundred dollars each per month; nine deputies, who shall be court bailiffs, at a salary of ninety dollars each per month; five deputies who shall be turnkeys at the county jail, at a salary of ninety dollars each per month; one jail matron, at a salary of fifty dollars per month; one stenographer, at a salary of seventy-five dollars per month. The salaries of the under sheriff, the matron and all deputies and stenographers herein provided for shall be paid by said county in monthly installments at the same time, in the same manner and out of the same fund that the salary of the sheriff is paid. The sheriff shall also receive the amount of money necessarily expended by him in serving all processes and notices, and the same shall be charged against the county and allowed as such by the board of supervisors, and paid as other county charges are paid. In case of sale of property on foreclosure of mortgage or on execution, the sheriff shall be entitled to receive all necessary expenses of keeping the property and of advertising the sale.

3. The recorder, three thousand six hundred dollars per annum; provided, that in counties of this class there shall be and there hereby is allowed the recorder the following deputies and copyists, who shall be appointed by the recorder of said county and shall be paid salaries as follows: One chief deputy, at a salary of one hundred and fifty dollars per month; two deputies at a salary of one hundred and twenty-five dollars each per month; four deputies, at a salary of one hundred dollars each per month; ten deputies, at a salary of ninety dollars each per month; and as many copyists as may be required, who shall receive as compensation for their services the sum of seven cents per folio for recording any instrument and notice, except maps or plats; for copies of any record or paper, seven cents per folio. The salaries and compensation of all deputies and copyists herein provided for shall be paid by the county in monthly installments, at the same time, in the same manner and out of the same fund as the salary of the county recorder is paid.

4. The auditor, three thousand six hundred dollars per annum; provided, that in counties of this class there shall be and there hereby is allowed to the auditor the following deputies, clerks and assistants, who shall be appointed by the auditor, and who shall be paid salaries as follows: One chief deputy at a salary of one hundred and fifty dollars per month; one deputy at a salary of one hundred and twenty-five dollars per month; two deputies, at a salary of one hundred and ten dollars each per month; four deputies, at a salary of one hundred dollars each per month; and forty clerks at a salary of ninety dollars each per month, for not to exceed one month each in any one year; and such additional assistants as the auditor may require, and whose compensation in the aggregate shall not exceed the sum of one thousand two hundred and fifty dollars in any one year. The salaries of the deputies, clerks, and assistants herein provided for shall be paid by the county in monthly installments, at the same time, in the same manner and out of the same fund as the salary of the auditor is paid.

5. The treasurer, three thousand six hundred dollars per annum; provided, that in counties of this class there shall be and thereby is allowed to the treasurer the following deputies, who shall be appointed by the treasurer, and who shall be paid salaries as follows: One chief deputy, at a salary of one hundred and fifty dollars per month; one deputy at a salary of one hundred and fifteen dollars per month; and one deputy at a salary of one hundred dollars per month. The salaries of the deputies herein provided for shall be paid by said county in monthly installments, at the same time, in the same manner and out of the same fund as the salary of the treasurer.

6. The tax collector, three thousand six hundred dollars per annum, which shall be in full compensation for all services rendered by him; provided, that in counties of this class there shall be and there hereby is allowed to the tax collector the following deputies, stenographers and clerks, who shall be appointed by the tax collector, and who shall be paid salaries as follows: One chief deputy, at a salary of one hundred and fifty dollars per month; one deputy who shall be chief report clerk, at a salary of one hundred and fifteen dollars per month; one deputy who shall be report clerk, at a salary of one hundred and ten dollars per month; one deputy who shall be cashier, at a salary of one hundred and fifteen dollars per month; one deputy who shall be the general clerk, at a salary of one hundred and fifteen dollars per month; one deputy who shall be the correspondence clerk, at a salary of one hundred and ten dollars per month; one deputy who shall be a license clerk, at a salary of one hundred dollars per month; and two deputies who shall be license inspectors, at a salary of ninety dollars each per month; five clerks at a salary of ninety dollars each per month; one deputy who shall be bookkeeper, at a salary of one hundred and ten dollars per month; one deputy who shall be sale and redemption clerk, at a salary of one hundred dollars per month; one stenographer, at a salary of seventy-five dollars per month; four clerks for a period not to exceed six months in any one year, at a salary of ninety dollars each per month; forty-five clerks for a period not to exceed four months in any

one year, at a salary of ninety dollars each per month. There is also allowed not to exceed four hundred dollars for traveling expenses of said license tax collector each year. The salaries of the deputies, clerks and stenographers herein provided for shall be paid by said county in monthly installments, at the same time, in the same manner, and out of the same fund as the salary of the tax collector.

7. The district attorney, four thousand dollars per annum; provided, that in counties of this class there shall be and there hereby is allowed to the district attorney the following deputies and employees, who shall be appointed by the district attorney of said county, and who shall be paid salaries as follows: One assistant district attorney, at a salary of two hundred dollars per month; one chief deputy, at a salary of one hundred and seventy-five dollars per month; six deputies, at a salary of one hundred and fifty dollars each per month; two stenographers, at a salary of one hundred dollars each per month; one detective, at a salary of one hundred dollars per month, who shall assist the district attorney in the detection of crime and the prosecution of criminal cases; provided further, that nothing herein contained shall be construed to prevent the board of supervisors of said counties of this class from employing special counsel when, in the judgment of said board, the interests of said counties require it. The salaries of the assistants, deputies, stenographers, special counsel and detective herein provided for shall be paid by the county in monthly installments, at the same time, in the same manner and out of the same fund as the salary of the district attorney.

8. The assessor, three thousand six hundred dollars per annum, which shall be in full compensation for all services rendered by him; provided, that in counties of this class there shall be and hereby is allowed to the assessor the following deputies, clerks, stenographers and copyists, who shall be appointed by the assessor, and who shall be paid salaries as follows: One chief deputy, at a salary of one hundred and fifty dollars per month; two deputies, at a salary of one hundred and fifteen dollars each per month; seven deputies, at a salary of ninety dollars each per month; thirty field deputies for not exceeding four months in any one year, at a salary of ninety dollars each per month; thirty field deputies for not exceeding two months in any one year, at a salary of one hundred dollars each per month; eight field deputies for not exceeding four months in any one year, at a salary of one hundred dollars each per month; ten field deputies for not exceeding four months in any one year, at a salary of ninety dollars each per month; nine deputies for not exceeding four months in any one year, at a salary of ninety dollars each per month; five copyists for not exceeding four months in any one year, at a salary of seventy-five dollars each per month; twenty-five copyists for not exceeding three months in any one year, at a salary of seventy-five dollars each per month; eight copyists for not exceeding seven months in any one year, at a salary of seventy-five dollars each per month; six deputies, who shall be comparers, for not to exceed two months in any one year, at a salary of ninety dollars each per month;

two deputies who shall be photographers for not to exceed eight months in any one year, at a salary of one hundred dollars each per month; one stenographer, at a salary of seventy-five dollars per month; there is also allowed not to exceed five hundred dollars for traveling expenses of the said assessor or his deputies each year. The salaries of the deputies, stenographers, clerks and copyists herein provided for shall be paid by said county in monthly installments, at the same time, in the same manner and out of the same fund as the salary of the county assessor is paid. It is further provided, that in counties of this class, the assessor shall receive no commission for his collection of taxes on personal property, nor shall such assessor receive any compensation or commission for the collection of poll taxes or road poll taxes, nor shall the said assessor receive any compensation for making out the military roll of persons returned to him as subject to military duty, as provided by section nineteen hundred and one of the Political Code; provided, however, that fifteen per cent of all moneys collected by him for poll taxes and road poll taxes shall be allowed to such counties on their settlement with the state, and be and remain the property of such counties.

2. The coroner, three thousand dollars per year, and his actual necessary expenses in traveling outside of the county seat. He must hold inquests as prescribed by Chapter II, Title XII, Part II, of the Penal Code, except that he may, in his discretion, dispense with a jury. The coroner or other officer holding an inquest upon the body of a deceased person may subpoena a physician or surgeon to inspect the body, or chemist to make an analysis of the contents of the stomach or tissues of the body, or hold a post-mortem examination of the deceased, and give his professional opinion as to the cause of death. The coroner, in counties of this class, shall be and is hereby allowed the following assistants: One stenographer, at a salary of two hundred dollars per month, who shall, when directed by the coroner, take down in shorthand the testimony of witnesses at inquests, and under the direction of the coroner transcribe the same into longhand, and file a certified copy thereof with the county clerk, and the coroner may also appoint such stenographer as his deputy; one clerk, at a salary of one hundred dollars per month, who shall also act as messenger, and perform such other duties as the coroner may direct. The salaries of the stenographer and clerk herein provided shall be paid by the county in the same manner, at the same time and out of the same fund as the salary of the coroner.

10. The public administrator, three thousand dollars per annum; provided, that in counties of this class there shall be and there is hereby allowed to the public administrator one clerk, at a salary of one hundred dollars per month, and the salary of said clerk shall be paid by the county in the same manner, at the same time and out of the same fund as the salary of the public administrator.

11. The superintendent of schools, three thousand dollars per annum, which shall be in full for all services, including attendance upon the

board of education, and actual necessary traveling expenses, not to exceed five dollars for every school district in the county; provided, that in counties of this class, there shall be and there hereby is allowed to the superintendent of schools the following assistants and deputies, who shall be appointed by the superintendent of schools of said county, and who shall be paid salaries as follows: One assistant who shall be chief deputy, at a salary of one hundred and fifty dollars per month; one deputy, at a salary of one hundred and fifteen dollars per month; one deputy, at a salary of one hundred dollars per month; and one deputy, at a salary of ninety dollars per month. The salaries of the assistants and deputies herein provided for shall be paid by the county at the same time, in the same manner and out of the same fund as the salary of the superintendent of schools.

12. The health officer, one thousand two hundred dollars per annum, and special health officers, when appointed as in this act provided, ten dollars each per day; provided, that not more than five hundred dollars per annum shall be paid or expended in any one year in payment of special health officers. The salary of the health officer and special health officers shall be paid by the county in the same manner and at the same time as the salaries of the other county officers are paid.

12½. Each member of the county board of education, except the secretary thereof, five dollars for each session of the board attended, not exceeding a total of four hundred dollars to any one member in one year. In addition, each member shall be entitled to mileage at the rate of ten cents per mile, for one way only, while attending the regular sessions. Said compensation of the members of the board of education shall be payable monthly and out of the same funds, and in the same manner as the salary of the county superintendent of schools is paid. Said compensation shall be in full payment for all services rendered.

13. The surveyor, three thousand six hundred dollars per annum, and in addition thereto all necessary expenses and transportation for work performed in the field; provided, that in counties of this class there shall be and there hereby is allowed to the surveyor one chief deputy, and ten deputies, who shall be draughtsmen, and who shall be appointed by the surveyor of said county and shall be paid salaries as follows: One chief deputy, at a salary of one hundred and seventy-five dollars per month; five draughtsmen, at a salary of one hundred and twenty-five dollars each per month; four draughtsmen, at a salary of one hundred dollars each per month; one draughtsman, at a salary of eighty dollars per month. The salaries of said surveyor and said deputies and draughtsmen herein provided for shall be paid by said county in monthly installments at the same time and in the same manner as the deputies of other county officers are paid.

14. Supervisors, one thousand eight hundred dollars per annum, together with mileage at the rate of ten cents per mile for each mile actually traveled by them in the discharge of their duties, either as road commissioners or supervisors, not exceeding in the aggregate seven hundred and fifty dollars each per annum. They shall also receive their

necessary expenses when attending meetings of the state board of equalization; and provided further, that there shall be and hereby is allowed to the board of supervisors the following clerks: One clerk, at a salary of ninety dollars per month; one clerk, at a salary of one hundred and ten dollars per month; one clerk, at a salary of one hundred dollars per month; one clerk, who shall be superintendent of charities, at a salary of one hundred dollars per month; two clerks, who shall be assistants to the superintendent of charities, at a salary of seventy-five dollars each per month; fourteen clerks for not exceeding thirty days in any one year, at a salary of four dollars each per day, to assist said board while sitting as board of equalization; and in addition to the clerks hereinbefore provided for, in years when the general election is held within the state, there shall be and hereby is allowed to said board of supervisors fifteen clerks for not to exceed fifteen days in such years, at a compensation of four dollars each per day. Such clerks shall be appointed by the board of supervisors and shall be paid by said county in the same manner, at the same time and out of the same fund as other clerks of the county officers are paid; and still further provided, that from and after the first Monday after the first day of January, in the year one thousand nine hundred and nine, supervisors in counties now of this class shall receive as compensation for the services required of them by law, a salary of two thousand four hundred dollars each per annum, together with mileage at the rate of ten cents per mile for each mile actually traveled by them in the discharge of their duties, either as road commissioners or supervisors, not exceeding in the aggregate seven hundred and fifty dollars each per annum, and they shall also receive their necessary expenses when attending meetings of the state board of equalization.

15. Justices of the peace, such fees as are now or may be hereafter allowed by law; provided, that no justice of the peace shall receive more than one thousand five hundred dollars per annum, which may be paid in monthly installments of not exceeding one hundred and twenty-five dollars per month, for all services rendered by him in criminal cases, or in actions or proceedings to which the people of the state of California are or may be parties; and no claim of any such justice of the peace in excess of said sum of one thousand five hundred dollars per annum, or the installments thereof as aforesaid, shall be allowed or paid; but all fines and fees collected by every such justice on the account aforesaid shall belong to and be the property of the county in which such justice exercises his jurisdiction. And each of such justices shall report, under oath, on the first Monday of each month, to the board of supervisors of such county, the amount of all fines and fees collected by him, on the account aforesaid, during the preceding month, and shall, on said date, deposit with the county treasurer, to the credit of the county, all such fines and fees as may be shown by said report to have been collected by him. He shall also transmit the treasurer's receipt for said payment to said board, with the said report; provided further, that the boards of supervisors of such counties may, in townships having a population of more than thirty-five thousand, provide such justices,

or any of them, with an officer and the necessary furniture and supplies for the justice's court; and provided further, that the boards of supervisors in said counties and in townships having more than thirty-five thousand inhabitants, shall, upon the recommendation of the township justice or justices, appoint a clerk for each of the justice's court, which clerks shall each hold office for the term of two years from and after appointment, and shall receive a salary of one hundred dollars per month each, payable in like manner, at like times and out of the same fund as county officers are paid by the county; said clerks shall each take and file an oath of office in like manner as county officers, and after being appointed and qualifying as hereinbefore prescribed, shall have power to administer and certify oaths to affidavits, and all papers, documents, or instruments used in or in connection with the actions and proceedings of such justice's court. Such clerks shall perform such other clerical service as may be required of them by the justice or justices.

16. Constables, such fees as are now or may hereafter be allowed by law; provided, that no constable shall receive more than one thousand two hundred dollars per annum, which may be paid in monthly installments of not exceeding one hundred dollars per month, for all services rendered by him in all criminal cases or in actions or proceedings to which the people of the state of California are, or may be, made parties; and all fees collected by such constable on account of services rendered in criminal cases or proceedings, to which the people of the state of California are parties, shall belong to and be the property of the county in which said constable has been elected or appointed; provided further, that the constable shall be allowed the actual fare and expenses incurred in transporting prisoners to the county jail; and provided further, that in counties of this class and in townships having more than thirty-five thousand inhabitants, there shall be, and there is hereby allowed to such constable, one deputy, who shall be appointed by the constable, and shall receive a salary of seventy-five dollars per month, payable in like manner and at like times, and out of the same fund as the county officers are paid by the county; said deputy shall take and file an oath of office in like manner as county officers. Each constable shall report under oath on the first Monday of each month to the board of supervisors of such county, the amount of all fees collected by him for all services rendered in all criminal cases, or in actions or proceedings to which the people of the state of California are, or may be, made parties, during the preceding month, and shall, on said date, deposit with the county treasurer to the credit of the county all such fees as may be shown by said report to have been collected by him on account of the aforesaid. He shall also transmit the treasurer's receipt for said payment to said board with said report. [Amendment approved March 20, 1905. Stats. 1905, p. 511. In effect immediately.]

§ 160. In counties of the third class the county officers shall receive as compensation for the services required of them by law, or by virtue of their office, the following salaries:

1. The county clerk, four thousand (\$4,000) dollars per annum; provided, that in counties of this class there shall be and there hereby is allowed to the county clerk one chief deputy, whose salary is hereby fixed at the sum of eighteen hundred (\$1800) dollars per annum; five courtroom deputies, whose salaries are hereby fixed at the sum of fifteen hundred (\$1500) dollars per annum each; one deputy, whose salary is hereby fixed at the sum of fifteen hundred (\$1500) dollars per annum; four deputies, whose salaries are hereby fixed at the sum of twelve hundred (\$1200) dollars per annum each; and one copyist, whose salary is hereby fixed at the sum of twelve hundred (\$1200) dollars per annum; the chief deputy, ten deputies, and one copyist herein provided for shall be appointed by the clerk of said county, and their salaries shall be paid by said county in equal monthly installments at the same time and in the same manner and out of the same fund as is the salary of county clerk; provided further, that in such years as the compilation of a great register of voters is required by law to be made, the county clerk, in counties of this class, shall be and he is hereby allowed the following additional help: One clerk for a period of and not exceeding six months, whose salary is hereby fixed at one hundred and twenty-five (\$125) dollars per month; four clerks, for a period of and not exceeding four months, whose salaries are hereby fixed at one hundred (\$100) dollars each per month. Such clerks shall be appointed by the county clerk of such counties and during their respective periods of employment, their salaries shall be paid by such county in equal monthly installments at the same time and in the same manner and out of the same fund as is the salary of the county clerk of such counties.

2. The sheriff, four thousand (\$4,000) dollars per annum; provided, that there shall be and hereby is allowed to the sheriff one under-sheriff, whose salary is hereby fixed at the sum of two thousand four hundred (\$2,400) dollars per annum; one bookkeeper, whose salary is hereby fixed at the sum of eighteen hundred (\$1800) dollars per annum; one chief jailer, whose salary is hereby fixed at the sum of fifteen hundred (\$1500) dollars per annum; two assistant jailers, whose salaries are hereby fixed at the sum of twelve hundred (\$1200) per annum each; five bailiffs, whose salaries are hereby fixed at the sum of twelve hundred (\$1200) dollars per annum each; one office deputy, whose salary is hereby fixed at the sum of twelve hundred (\$1200) dollars per annum; one matron for the jail, whose salary is hereby fixed at the sum of six hundred (\$600) dollars per annum; and one stenographer, whose salary is hereby fixed at the sum of six hundred (\$600) dollars per annum; the under sheriff, bookkeeper, chief jailer, office deputies, assistant jailers, bailiffs, matron for jail, and stenographer, herein provided for shall be appointed by the sheriff; and their salaries shall be paid by said county in equal monthly installments, at the same time and in the same manner and out of the same fund as the salary of the sheriff; provided, that in counties of this class the sheriff shall be allowed no compensation or profit for feeding prisoners in the county jail, but that he shall file, monthly, with the county auditor, a verified statement, showing the names of persons and

amounts paid to each for expense of feeding such prisoners, and the sheriff shall thereupon pay over to the county treasurer, for the use of the county, any difference between the amount allowed for such purpose by the supervisors and the amount actually expended by him therefor. The sheriff shall also receive the amount of money necessarily expended by him in serving all process and notices and all expenses necessarily incurred by him in the pursuit of criminals within his county, and the same shall be a charge against the county and allowed as such by the board of supervisors, and paid as other county charges are paid.

3. The recorder, four thousand (\$4000) dollars per annum; provided, that in counties of this class there shall be and there thereby is allowed to the recorder the following deputies and copyists, who shall be appointed by the recorder in such county, and shall be paid salaries and compensations as follows: One chief deputy, at a salary of eighteen hundred (\$1800) dollars per annum; one index deputy, whose salary is hereby fixed at fifteen hundred (\$1500) dollars per annum; three deputies, whose salaries are hereby fixed at twelve hundred (\$1200) dollars per annum each; and one mortgage deputy, whose salary is hereby fixed at twelve hundred (\$1200) dollars per annum; provided further, that the chief deputy, index deputy, three deputies, and one mortgage deputy herein provided for shall be appointed by the recorder of said county, and their salaries shall be paid by said county in equal monthly installments, at the same time and in the same manner and out of the same fund as the salary of the recorder; provided further, that in counties of this class the recorder shall be entitled to the actual cost incurred by him for the recording of all papers and documents in his office, not exceeding eight cents per folio for each paper or document so recorded; and provided further, that said recorder shall file monthly, with the county auditor, a verified statement, showing in detail the persons and the amounts paid to each for such recording.

4. The auditor, thirty-six hundred dollars per annum; provided, that in counties of this class there shall be and hereby is allowed to the auditor one chief deputy, who shall be appointed by the auditor of said county, and whose salary is hereby fixed at the sum of eighteen hundred dollars per annum; one deputy, who shall be appointed by the auditor of such county, and whose salary is hereby fixed at the sum of twelve hundred dollars per annum; one clerk, whose salary is hereby fixed at the sum of twelve hundred dollars per annum, and such additional assistance as the auditor may appoint, and whose compensation shall not in the aggregate exceed the sum of one thousand dollars per annum; and provided, that the auditor shall file with the county clerk a verified statement, showing in detail the amounts paid, and the persons to whom said compensation is paid, for such extra assistance as aforesaid. The salaries herein provided for shall be paid by the said county in equal monthly installments, at the same time and in the same manner, and out of the same fund as the salary of the auditor.

5. The treasurer, three thousand six hundred dollars per annum; provided, that in counties of this class there shall be and hereby is allowed

to the treasurer one chief deputy, whose salary is hereby fixed at the sum of eighteen hundred dollars per annum, and one deputy, whose salary is hereby fixed at the sum of twelve hundred dollars per annum, which sum shall be paid by said county in equal monthly installments, at the same time, and in the same manner, and out of the same fund as the salary of the treasurer; provided, that the chief deputy and the deputy herein provided for, shall be appointed by the treasurer of such county.

6. The tax collector, three thousand dollars per annum; provided, that in counties of this class there shall be and there hereby is allowed to the tax collector one chief deputy, whose salary is hereby fixed at the sum of eighteen hundred dollars per annum, three deputies, whose salaries are hereby fixed at the sum of twelve hundred dollars each per annum, and one stenographer whose salary is hereby fixed at the sum of six hundred (\$600) dollars per annum; provided further, that there shall be and there hereby is allowed to the tax collector not to exceed two extra deputies for the month of April of each year, whose salaries shall be one hundred dollars for such month, and three extra deputies for the month of July of each year, whose salaries shall be one hundred dollars each for such month, and five extra deputies for the month of August of each year, whose salaries shall be one hundred dollars each for such month, and six extra deputies for the month of September of each year, whose salaries shall be one hundred dollars each for such month, and seven extra deputies for the month of October of each year, whose salaries shall be one hundred dollars each for such month, and not to exceed twelve extra deputies for the month of November of each year, whose salaries shall be one hundred dollars each for such month; provided further, that the chief deputy, the stenographer, and all other deputies herein provided for, shall be appointed by the tax collector of said county, and the salaries of said chief deputy and all other deputies herein provided for shall be paid by said county, during the time which they shall hold office, as herein provided, at the same time and in the same manner and out of the same fund as the salary of the tax collector.

7. The license collector shall receive fifteen per cent of all licenses collected by him.

8. The assessor, four thousand dollars per annum; provided, that in counties of this class there shall be and there hereby is allowed to the assessor the following deputies, who shall be appointed by the assessor and shall be paid salaries as follows: One chief deputy assessor, at twenty-four hundred dollars per annum; one deputy assessor, at fifteen hundred dollars per annum; one mortgage deputy assessor, at twelve hundred dollars per annum; one transfer deputy assessor, at twelve hundred dollars per annum; seven outside field deputy assessors, at one hundred and twenty-five dollars each per month not exceeding six months in any one year; one stenographer, at six hundred dollars per annum; six field deputy assessors, for not exceeding four months in any one year, at one hundred dollars each per month; one cashier, for not exceeding, seven months in any one year, at a salary of one hundred and twenty-five dollars per month; eight copyists, for not exceeding four months in

any one year, at a salary of one hundred dollars each per month; five extra deputy assessors, for not exceeding four months in any one year, at a salary of one hundred dollars each per month, and such additional assistance as the assessor may appoint and whose compensation shall not in the aggregate exceed the sum of forty-five hundred dollars per annum; and provided, that the assessor shall file with the county auditor a verified statement showing in detail the amounts paid and the persons to whom such compensation is paid for such extra assistance, as aforesaid. The salaries herein provided for shall be paid by the said county in monthly installments, at the same time and in the same manner and out of the same fund as the salary of the assessor is paid; it is hereby further provided, that in counties of this class the assessor shall receive commissions for his collections of taxes on personal property, and such assessor shall receive compensation or commission for the collection of poll taxes or road poll taxes, but the said assessor shall not receive compensation for making out the military roll of persons returned by him as subject to military duty as provided by section nineteen hundred and one of the Political Code; provided, however, that should the assessor be directed by any law, or by any order of the board of supervisors, or by any municipality within said counties of the third class, to prepare maps, plats or block books for the use of the county, or assessment-rolls for the use of any municipality, then said assessor shall make such maps, plats, or block books, or assessment-rolls, but shall only receive the actual cost by him incurred in making or preparing such maps, plats or block books or assessment-rolls; and provided further, that, he shall file with the county auditor a sworn statement showing the persons to whom, and the amounts paid to each, for such maps, plats or block books, or assessment-rolls, and he shall account forthwith and pay over to the county any difference between such cost and the amount allowed him for such work.

9. The district attorney, four thousand dollars per annum; provided, that in counties of this class there shall be and there hereby is allowed to the district attorney one chief deputy district attorney, whose salary is hereby fixed at two thousand dollars per annum; three deputy district attorneys, whose salaries are hereby fixed at fifteen hundred dollars per annum each; and one clerk, whose salary is hereby fixed at the sum of twelve hundred dollars per annum; provided further, that the chief deputy district attorney, and three deputy district attorneys, and clerk shall be appointed by the district attorney and their salaries shall be paid by said county in equal monthly installments, at the same time and in the same manner and out of the same fund as the salary of the district attorney; provided further, that in counties of this class there shall be and there hereby is allowed to the district attorney a stenographer whose salary is hereby fixed at the sum of nine hundred dollars per annum; and for the purpose of assisting the district attorney in the detection of crime and the prosecution of criminal cases and in civil actions and proceedings and all matters in which the county is interested, there is allowed to the district attorney a detective, whose salary is hereby

fixed at the sum of fifteen hundred dollars per annum; provided further, that the stenographer and detective shall be appointed by the district attorney, and their salaries shall be paid by said county in equal monthly installments, at the same time and in the same manner, and out of the same fund as the salary of the district attorney; provided further, that the provisions of this subdivision of this section of this act with reference to the stenographer shall be in force and effect on and after twelve o'clock meridian of the first Monday in January, nineteen hundred and seven; provided further, that the provisions of this subdivision of this section of this act with reference to the detective shall be in force and effect from and after its passage.

10. The coroner, such fees as are now or may hereafter be allowed by law; provided, that the coroner shall be paid by such counties in the same manner and out of the same fund as such fees are now paid, the sum of two dollars for each certificate of the cause of death made by him.

11. The public administrator, such fees as are now or may hereafter be allowed by law.

12. The county superintendent of schools, three thousand dollars per annum; provided, that in counties of this class, there shall be and hereby is allowed to the county superintendent of schools, one assistant superintendent of schools, and one deputy, who shall be appointed by the county superintendent of schools of said county and whose salaries shall be as follows: The salary of the assistant shall be one hundred dollars per month, that of the deputy shall be one hundred dollars per month. The salaries shall be paid out of the same fund and in the same manner as the salary of the county superintendent of schools is paid.

13. The surveyor shall receive ten dollars per day for all work performed for the county, and in addition thereto all necessary expenses and transportation for work performed in the field; provided, that whenever the surveyor is directed or charged to make, plat, trace, or otherwise prepare maps, plats, or blockbooks for the use of the county, city and county, or any municipality within such county, then such county surveyor shall only be allowed, in addition to the actual cost and expense of making, platting, tracing, or otherwise preparing such maps, plats, or block books, a compensation to be determined by the board of supervisors, not exceeding the sum of ten dollars per day while he is actually so employed; and provided further, that such county surveyor shall file with the county auditor a sworn statement, showing in detail the amounts so paid, and the persons to whom such amounts have been so paid for such expense as aforesaid.

14. Justices of the peace shall receive the following monthly salaries, to be paid each month, and in the same manner and out of the same fund as other county officers are paid, which shall be in full for all services rendered by them in criminal cases: In townships having a population of more than nineteen thousand, two hundred and twenty-five dollars; in townships having a population of fifteen thousand and less than nineteen thousand, one hundred and fifteen dollars; in townships having a popula-

tion of one thousand and less than fifteen thousand, seventy-five dollars. In addition to the compensation received in criminal cases each justice of the peace may receive and retain for his own use such fees as are now or may hereafter be allowed by law for all services performed by him in civil actions; provided, that in townships containing a population of more than twenty-five thousand there shall be but one justice in and for such townships. Each justice of the peace must keep a book, open for the inspection of the public, during office hours, in which must be entered at once and in detail the amount of all fines collected by him in criminal cases, and on the first Monday of each and every month he must pay such fines so collected into the county treasury, or city treasury, as provided by law.

15. Constables shall receive the following monthly salaries, to be paid each month, and in the same manner and out of the same fund as other county officers are paid, which shall be in full for all services rendered by them in criminal cases: In townships having a population of more than twenty-five thousand, one hundred and fifty dollars; in townships having a population of more than nineteen thousand and less than twenty-five thousand, ninety dollars; in townships having a population of fifteen thousand and less than nineteen thousand, eighty dollars; in townships having a population of one thousand and less than fifteen thousand, eighty-five dollars; provided, that in townships having a population of fifteen thousand and less than nineteen thousand there shall be but one constable. In addition to the compensation received in criminal cases each constable may receive and retain for his own use such fees as are now or may hereafter be allowed by law for all services performed by him in civil cases; provided, that in counties of this class constables shall be and they are hereby allowed such expenses as are actually and necessarily incurred by them in conveying prisoners to and from the county jail; such expenses to be itemized and presented as a claim against the county and to be audited and allowed by the board of supervisors and paid out of the county treasury in the manner as are other claims.

16. Each supervisor, one hundred and twenty-five dollars per month, and mileage at ten cents per mile for each mile actually traveled in going to and from their residence to the county seat, or in the performance of the duties required of them by law or by virtue of their office; provided, that in attending sessions of the board only four mileages shall be allowed for each month, and that the total mileage allowed shall not exceed one hundred dollars in any one month. [Amendment approved March 22, 1905. Stats. 1905, p. 746. In effect partly on the first Monday of January, 1907, and partly in sixty days.]

§ 161. In counties of the fourth class the county officers shall receive as compensation for the services required of them by law or by virtue of their office, the following salaries to wit:

1. The county clerk, nine thousand dollars per annum.
2. The sheriff, nine thousand five hundred and twenty dollars per annum; provided, that he shall receive as additional compensation the mileage collected by him in criminal cases, and all expenses incurred in

criminal cases, and also his mileage for service of papers or process issued by any court of this state, and all fees for service of papers or process in actions arising outside of his county, and the said sheriff may appoint a matron for the county jail of his county, which office of matron for the county jail is hereby created, and who shall receive as compensation the sum of seventy-five dollars per month, payable at the same time, and in the same manner as the salaries of other county officers.

3. The recorder, eight thousand dollars per annum; and the said recorder may appoint one chief deputy, which said office of chief deputy recorder is hereby created, who shall hold said office of chief deputy recorder for a period of four years from and after his appointment, and who shall receive as compensation the sum of twelve hundred dollars per annum, payable at the same time and in the same manner as the salaries of other county officers.

4. The auditor, four thousand dollars per annum.

5. The treasurer, four thousand dollars per annum.

6. The tax collector, seven thousand dollars per annum.

7. The license collector, who shall be appointed by the board of supervisors, whose term of office shall be for the period of four years, five per cent upon the whole amount of licenses collected by him.

8. The assessor, eight thousand seven hundred dollars per annum, and the said assessor may appoint one chief deputy assessor, and one draughtsman for the assessor, which said officers of chief deputy assessor and draughtsman for the assessor are hereby created, who shall hold said offices of chief deputy assessor and draughtsman for the assessor, respectively, for the period of four years from and after their several appointments, and who shall receive as compensation the sum of twelve hundred dollars each, per annum, payable at the same time and in the same manner as the salaries of other county officers. And the assessor may also appoint each year two temporary deputies, who shall serve as such during the months of March, April, May, and June, of the year for which they are appointed, which said offices of temporary deputy assessors are hereby created, who shall receive as compensation the sum of eighty dollars each, per month, during the four months which they shall serve as such deputies, payable at the same time and in the same manner as the salaries of other county officers.

9. The district attorney, three thousand two hundred dollars per annum; and the said district attorney may appoint one assistant district attorney and one deputy district attorney, which said offices of assistant district attorney and deputy district attorney are hereby created. The salary of such assistant district attorney is hereby fixed at eighteen hundred dollars per annum, and the salary of such deputy district attorney is hereby fixed at twelve hundred dollars per annum, such salaries to be paid at the same time and in the same manner as the salaries of other county officers.

10. The coroner, such fees as are now or may hereafter be allowed by law.

11. The public administrator, such fees as are now or may hereafter be allowed by law.

12. The superintendent of schools, two thousand dollars per annum, and actual traveling expenses when visiting the schools of his county; and the said superintendent of schools may appoint one assistant superintendent of schools, which office of assistant superintendent of schools is hereby created, who shall receive as compensation the sum of nine hundred dollars per annum, payable at the same time and in the same manner as the salaries of other county officers.

13. The county surveyor, the sum of two thousand four hundred dollars per annum; and said surveyor may appoint one assistant surveyor, which said office of assistant surveyor is hereby created, who shall receive as compensation the sum of twelve hundred dollars per annum, payable at the same time and in the same manner as the salaries of other county officers. All fees now, or which may hereafter be, allowed by law, and which shall be earned by the county surveyor in the official discharge of his duties, shall be paid into the county treasury for the benefit of the county, accompanied by a sworn and itemized statement of such fees earned, on or before the first Monday of each month.

14. In counties of this class, justices of the peace shall receive the following salaries for all services rendered by them in criminal cases, payable monthly, in the same manner as the salaries of county officers are paid, viz.: In townships having a population of twenty thousand or more, one hundred and fifty dollars per month; in townships having a population of four thousand and less than twenty thousand, one hundred and thirty-five dollars per month; in townships having a population of fifteen hundred and less than four thousand, sixty-five dollars per month; in townships having a population of one thousand and less than fifteen hundred, fifty dollars per month; in all townships having a population less than one thousand, thirty dollars per month; provided, that in townships having a population of twenty thousand or more, there shall be two justices of the peace in and for any such townships, and such justices shall be allowed a clerk, to be appointed by the board of supervisors at a salary of seventy-five dollars per month, payable monthly in the same manner as salaries of county officers are paid, and shall be furnished with offices and necessary supplies by the board of supervisors. All fees collected by justices of the peace in criminal cases, shall be by them monthly paid into the county treasury, accompanied by a sworn and itemized statement showing the amount of such fees, and all fees for civil cases collected by justices of townships with a less population than five thousand inhabitants, shall likewise be paid into the county treasury.

15. Constables shall receive the following salaries for all services rendered by them in criminal cases, payable monthly, in the same manner as salaries of county officers are paid, viz.: In townships having a population of twenty thousand or more, one hundred dollars per month; in townships having a population of four thousand and less than twenty thousand, seventy-five dollars per month; in townships having a population of fifteen hundred and less than four thousand, sixty dollars per month; in townships having a population of less than fifteen hundred, forty dollars per month. They shall be allowed all necessary expenses

incurred in conveying prisoners, and such fees as are now or may be hereafter allowed in civil cases excepting constables in townships having a population of less than five thousand inhabitants who shall not receive any fees.

16. Each supervisor, one thousand two hundred dollars per annum, and mileage at ten cents per mile for each mile actually traveled in going to and from their residence to the county seat, or in performance of the duties required of them by law or by virtue of their office; provided, that in attending sessions of the board only four mileages shall be allowed for each month, and that the total mileage allowed shall not exceed one hundred dollars in any one month; and in counties of this class the members of the board of supervisors shall be ex officio road commissioners, and as such road commissioner shall be paid the sum of five hundred dollars per annum each. [Amendment approved March 16, 1903. Stats. 1903, p. 168. In effect immediately.]

§ 162. In counties of the fifth class the county officers shall receive as compensation for the services required of them by law, or by virtue of their office, the following salaries, to wit:

1. The county clerk, three thousand dollars per annum. He shall appoint one chief deputy, at a salary of eighteen hundred dollars per annum; two additional deputies at a salary of twelve hundred dollars each per annum, and three courtroom clerks at a salary of one thousand five hundred dollars each per annum, and a deputy or deputies not to exceed five, for the purpose of registering electors, to be paid not to exceed four dollars per diem each, provided, that said deputies so employed for registering electors shall not be employed except during a year when a general election is to be held throughout the state and then only between the first day of June and the fifteenth day of November of said year; and such deputies as may be needed for the purpose of registering electors in precincts outside of the corporate limits of the city of Sacramento in said county, who shall be paid fifteen cents per name for each person legally registered by them. The salaries and compensation of each of said deputies and clerks to be paid out of the county treasury in equal monthly installments in the same manner and at the same time as other county officials are paid.

2. The sheriff shall receive three thousand six hundred dollars per annum salary. The sheriff shall also receive for his own use the fees for mileage which are now, or which may hereafter, be allowed by law, and the fees and commissions for the service of all papers whatsoever issued by any court of the state outside of this county, and shall also receive his necessary expenses in all criminal cases. The sheriff shall also be paid twelve and one-half cents per meal each for all meals furnished prisoners confined in the county jail. The sheriff shall have one under sheriff at a salary of one thousand five hundred dollars per annum, two jailers at a salary of twelve hundred dollars per annum each, and three court bailiffs, or deputies, at a salary of twelve hundred dollars per annum each. All deputies herein mentioned shall be appointed by the

sheriff, and paid at the same time and manner that their principal is paid.

3. The recorder, three thousand dollars per annum. The recorder may appoint one chief deputy at a salary of fifteen hundred dollars per annum; one mortgage clerk, at a salary of twelve hundred dollars per annum; one index clerk, at a salary of twelve hundred dollars per annum. Said recorder may also appoint such copyists, not to exceed three, as may be required for the recording of all papers, notices or documents in his office, who shall receive as compensation for their services, the sum of twelve hundred dollars each per annum. The salaries and compensation of all deputies and copyists herein provided for, each of whom shall be a deputy county recorder, shall be paid by said county in monthly installments, at the same time and in the same manner and out of the same fund as the salary of the county recorder is paid.

4. The auditor, three thousand dollars per annum; provided, that in counties of this class there shall be, and is, hereby allowed to the auditor one deputy, who shall be appointed by the auditor of said county and whose salary is hereby fixed at fifteen hundred dollars per annum, and such additional assistants as the auditor may require, and whose compensation shall not exceed the sum of five hundred dollars per annum, in the aggregate, for all assistants so employed, and provided, that the auditor shall file with the county clerk a verified statement, showing in detail the amounts paid and the persons to whom such compensation has been paid for such additional assistance as aforesaid. The salaries herein provided for shall be paid by the said county in equal monthly installments, at the same time, and in the same manner, and out of the same fund as the salary of the auditor.

5. The treasurer, three thousand four hundred dollars per annum.

6. The tax collector, two thousand five hundred dollars per annum; provided that he shall have such assistants as he may require, whose compensation, which shall be paid by the county, shall not exceed the sum of five hundred dollars per annum in the aggregate.

7. The license collector, one thousand eight hundred dollars per annum.

8. The assessor, three thousand six hundred dollars per annum; provided, that in counties of this class there shall be, and there is, hereby allowed to the assessor, the following deputies, who shall be appointed by the assessor, and shall be paid salaries as follows: One chief deputy assessor, at eighteen hundred dollars per annum; one office deputy assessor, at fifteen hundred dollars per annum; one mortgage and transfer deputy assessor, at nine hundred dollars per annum; four field deputy assessors, for not exceeding four months in any one year, at a salary of one hundred and twenty-five dollars each per month; eight field deputy assessors for not exceeding four months in any one year, at a salary of one hundred dollars per month each; and such additional assistance as the assessor may require, and whose compensation shall not in the aggregate exceed the sum of six hundred dollars per annum; and provided, that the assessor shall file with the county auditor a verified statement showing in detail the amounts paid and the persons to whom such compensation is paid for such extra assistance, as aforesaid. The salaries of

the chief deputy assessor, office deputy assessor, mortgage and transfer deputy assessor and field deputy assessors herein provided for shall be paid by the said county in monthly installments, at the same time and in the same manner and out of the same fund as the salary of the assessor is paid. It is hereby further provided, that in counties of this class the assessor shall receive no commission for his collection of taxes on personal property, nor shall such assessor receive any compensation or commission for the collection of poll taxes or road poll taxes.

9. The district attorney, three thousand six hundred dollars per annum. In counties of this class, the district attorney may appoint an assistant district attorney, which office is hereby created, who shall receive as compensation for his services the sum of two thousand four hundred dollars per annum, to be paid out of the county treasury in equal monthly installments in the same manner, and at the same time other county officials are paid. In counties of this class the district attorney may appoint a deputy district attorney, which office is hereby created, who shall receive as compensation for his services the sum of one thousand eight hundred dollars per annum, to be paid out of the county treasury in equal monthly installments in the same manner, and at the same time other county officials are paid. In counties of this class, the district attorney may appoint a clerk for service in his office, which office of clerk to the district attorney is hereby created, and said clerk shall receive as compensation for his services, the sum of one thousand two hundred dollars per annum, to be paid out of the county treasury in equal monthly installments in the same manner and at the same time other county officials are paid.

10. The coroner, such fees as are now or may be hereafter allowed by law; provided, the coroner or other officer holding an inquest upon the body of a deceased person, may subpoena a chemist to make an analysis of the contents of the stomach or the tissues of the body, or a physician or surgeon to inspect the body, or hold a post-mortem examination of the deceased, and give a professional opinion as to the cause of death; and shall cause the testimony of all the witnesses at such inquest to be reduced to writing under his directions and may require one of the official reporters to act as clerk, or stenographer for such purpose, and in case any of such reporters should refuse or be unable to attend, may employ a stenographer for that purpose at the same compensation allowed to stenographers of the superior court of the county, such amount to be deducted from the salary of the official reporter in default.

11. The public administrator, such fees as are now or may be hereafter allowed by law.

12. The superintendent of schools, two thousand dollars per annum, and actual traveling expenses when visiting schools of his county, not exceeding three hundred dollars per annum; and the said superintendent of schools may appoint one assistant superintendent of schools, which office of assistant superintendent of schools is hereby created, who shall receive as compensation the sum of one thousand two hundred dollars per annum, payable at the same time and in the same manner as the

salaries of other county officers are paid. Each member of the board of education shall receive five dollars per day as compensation for his services when in actual attendance upon said board, and mileage at the rate of twenty cents per mile, one way only, from his residence to the place of meeting of said board. The secretary of said board of education shall receive five dollars per day for his services for the actual time that the board may be in session. Said compensation of the members of the said board and of said secretary shall be paid out of the same fund as the salary of the superintendent of schools. Claims of such service and mileage shall be presented to the board of supervisors and shall be allowed, at the rate above named, and in the manner as other claims against the county are allowed. The compensation of members of the county board of education herein provided is not in addition to that provided in section seventeen hundred and seventy of the Political Code.

13. The surveyor, two thousand four hundred dollars per annum, and in addition thereto all necessary expenses and transportation for work performed on the field; provided, that in counties of this class whenever the board of supervisors shall order, or the assessor may require, assessor's map or block books, then the surveyor shall receive, in addition to the salary hereinabove noted, the sum of nine hundred dollars for the preparation and completion of the said map or block books.

14. Justices of the peace, such fees as are or may be hereinafter allowed by law, except that the justices of the peace in townships containing twenty thousand or more inhabitants shall be allowed a salary of one hundred dollars per month each in lieu of all fees in criminal cases; provided, however, that justices of the peace in townships contiguous to municipalities containing twenty-five thousand or more inhabitants, or in which a state penal institution is located, shall be allowed a salary of seventy-five dollars per month each in lieu of all fees in criminal cases; the salary of the justices of the peace as above provided, to be paid at the same time, and in the same manner as county officers are paid.

15. Constables, such fees as are now or may be hereafter allowed by law, except that the constables in townships containing twenty thousand or more inhabitants shall be allowed a salary of one hundred dollars per month each, in lieu of all fees in criminal cases; provided, however, that constables in townships contiguous to municipalities containing twenty-five thousand or more inhabitants, or in which a state penal institution is located, shall be allowed a salary of seventy-five dollars per month each, and fifteen cents per mile for every mile actually traveled in taking prisoners to the county jail, in lieu of all fees in criminal cases, provided, however, that constables in townships not contiguous to municipalities containing twenty-five thousand or more inhabitants and constables in townships in which a state penal institution is not located shall receive in addition to the fees now provided by law three dollars per diem for each day in actual attendance on the court in criminal cases, and fifteen cents per mile for every mile actually traveled in taking prisoners to the county jail. The salary of the constables as above provided to be paid at the same time and in the same manner as county officers are paid.

16. Each supervisor, one hundred and twenty-five dollars per month, and ten cents per mile for traveling to and from the county seat; provided, mileage shall not be allowed oftener than once in each month.

17. From and after the first Monday in January, nineteen hundred and three, the offices of recorder and auditor shall be separate and shall not be consolidated by the board of supervisors.

18. For attending as a juror in the superior court, for each day's attendance, per day, three dollars. For each mile actually traveled in attending court as a juror, in going only, per mile, twenty-five cents. [Amendment approved March 20, 1905. Stats. 1905, p. 477. In effect in sixty days.]

§ 163. In counties of the sixth class the county officers shall receive, as compensation for the services required of them by law or by virtue of their office, the following salaries, to wit:

1. The county clerk, five thousand nine hundred dollars per annum; provided, that he shall appoint one chief deputy, at a salary of twelve hundred dollars per annum, two courtroom deputies, at salary of nine hundred dollars per annum each, and one deputy at a salary of nine hundred dollars per annum. The salaries of said four deputies shall be paid by said county clerk out of said five thousand nine hundred dollars compensation above named.

2. The sheriff, sixty-two hundred dollars per annum; provided, that he shall appoint one under-sheriff, at a salary of fifteen hundred dollars per annum, and three deputy sheriffs, at a salary of nine hundred dollars per annum each. The salary of said under-sheriff and deputies shall be paid by said sheriff out of said sixty-two hundred dollars compensation above named. The sheriff shall also receive, as compensation for traveling, to be computed in all cases from the courthouse, to serve any summons and complaint, or any other process by which an action or proceeding is commenced, notice, rule order, subpoena, attachment on property, to levy an execution, post notice of sale, to sell property under execution or other order of sale, to execute an order for the delivery of personal property, writ of possession or restitution, to hold inquest or trial of right of property, in executing writ of habeas corpus, or collecting taxes, twenty cents for each mile, one way only, to be computed over the nearest and most practicable route, between the courthouse and the place of service; provided, that if any two or more papers be required to be served in the same suit, at the same time, and in the same direction, one mileage only shall be charged to the most distant points to complete such service, which distance shall, in all cases, be estimated by the nearest practicable route.

3. The recorder, five thousand six hundred dollars per annum; provided, that the recorder shall appoint four copyists at a salary of nine hundred dollars per annum, each; which salary of said four copyists shall be paid by said recorder out of said sum of five thousand six hundred dollars compensation above named; and provided, further, that said copyists being eligible may be appointed deputies of said recorder without further compensation.

4. The auditor, two thousand four hundred dollars per annum; provided, that the expenses incurred in making extensions of assessment

and tax rolls shall be paid out of said sum of two thousand four hundred dollars compensation above mentioned.

5. The treasurer, two thousand dollars per annum, and such fees as are now or may hereafter be allowed by law.

6. The tax collector, three thousand dollars per annum, and such fees as are now or may be hereafter allowed him by law for the collection of all county licenses; provided, that the tax collector shall appoint as many deputies as may be necessary, all of which deputies' salaries shall be paid out of the compensation above named.

7. The assessor, four thousand two hundred dollars per annum; provided, that the assessor shall appoint one chief deputy, at a salary of twelve hundred dollars per annum, and as many deputy assessors as may be necessary, all of which deputies' salaries shall be paid by the said assessor out of said four thousand two hundred dollars compensation above mentioned.

8. The district attorney, two thousand four hundred dollars per annum, and one assistant district attorney, at a salary of fifteen hundred dollars per annum, to be paid at the same time and in the same manner as county officers are paid; said assistant district attorney allowed in lieu of the assistant district attorney allowed by virtue of subdivision thirty-six of section twenty-five of an act entitled "An act to establish a uniform system of county and township governments," approved March twenty-fourth, eighteen hundred and ninety-three.

9. The coroner, such fees as are now or may be hereafter allowed by law.

10. The public administrator, such fees as are now or may be hereafter allowed by law.

11. The superintendent of schools, two thousand dollars per annum, and actual traveling expenses when visiting the schools of his county; provided, said superintendent of schools may appoint a deputy at a salary of nine hundred dollars per annum, payable at same time and in same manner as salaries of other county officers are paid.

12. The surveyor shall receive one thousand eight hundred dollars per annum for all work performed for the county, and in addition thereto all necessary and actual traveling expenses incurred in connection with field work, and all fees allowed by law; provided, that out of the compensation hereinabove provided he shall pay the cost of plotting, tracing or otherwise preparing maps, plats or block books, and shall procure the necessary data therefor, for use of the county assessor; provided further, that the fees for land surveys, except when done for the county, shall be ten dollars per day, or fraction thereof, and in addition thereto all necessary and actual traveling expenses. He shall appoint a deputy at a salary of nine hundred dollars per annum, payable at the same time and in the same manner as county officers are paid.

13. Justices of the peace, such fees as are now or may be hereafter allowed by law.

14. Constables, such fees as are now or may be hereafter allowed by law.

15. Each member of the board of supervisors, for all services required of them by law, or by virtue of their office, except as road commissioners,

shall be allowed six dollars per day, and thirty cents per mile in traveling from their place of residence to the courthouse; provided, that only one mileage must be allowed at each term; and provided further, that no supervisor must be allowed more than one day's pay for any one day, by reason of his being on the committees appointed by the board of supervisors, or for any other cause; provided, that in no case shall the per diem of the supervisors, as supervisors, exceed eight hundred dollars each in one year. Each supervisor shall receive for his services as road commissioner, thirty cents per mile, one way, for all distances actually traveled by him in the performance of his duties; provided, that he shall not in any one year, receive more than four hundred dollars as such road commissioner. [Amendment approved March 20, 1905. Stats. 1905, p. 504. In effect on the first Monday after the first day of January, 1907.]

§ 164. In counties of the seventh class the county officers shall receive as compensation for the services required of them by law or by virtue of their offices, the following salaries, to wit:

1. The county clerk two thousand four hundred dollars (\$2,400) per annum. He shall have one deputy at a salary of thirteen hundred eighty dollars (\$1380) per annum; one deputy at a salary of twelve hundred dollars (\$1200), and three deputies at salaries of ten hundred and twenty dollars (\$1020) per annum each, and one at a salary of seven hundred and twenty dollars (\$720) per annum.

2. The sheriff fifty-four hundred dollars (\$5400) per annum and all fees for service of processes issued without his county. He shall have an under-sheriff whose annual salary shall be thirteen hundred eighty dollars (\$1380), two deputies whose annual salaries shall be twelve hundred (\$1200) each, one deputy whose salary shall be eleven hundred and forty dollars per annum and three deputies whose annual salaries shall be ten hundred and twenty dollars (\$1020) each.

3. The recorder twenty-one hundred dollars (\$2100) per annum. He shall have one deputy whose annual salary shall be thirteen hundred eighty dollars (\$1380), and two deputies whose annual salaries shall be ten hundred and twenty dollars (\$1020) each, and one deputy for a period of four months at seventy-five dollars (\$75) per month, he shall have such copyists as are necessary to perform the duties of the office at a compensation not to exceed six cents per folio.

4. The auditor twenty-one hundred (\$2100) dollars per annum, and one deputy at an annual salary of thirteen hundred eighty dollars (\$1380) and one clerk at an annual salary of ten hundred and twenty dollars (\$1020).

5. The treasurer twenty-five hundred dollars (\$2500) per annum. He shall have a deputy at a salary of thirteen hundred eighty dollars (\$1380) per annum.

6. The tax collector twenty-one hundred dollars (\$2100) per annum. He shall have one deputy who shall receive thirteen hundred eighty dollars (\$1380) per annum, and three deputies at an annual salary of ten hundred and twenty dollars (\$1020) each. No other fees or compensation other than the compensation provided for in this section shall be allowed the tax collector for the collection of license, and all license

or other fees collected shall be paid into the county treasury monthly, rendering therewith a statement of the license or other fees collected. He shall be allowed actual traveling expenses in the collection of said license fees, the same to be audited by the board of supervisors and paid the same as other bills against the county are paid.

7. The assessor shall receive three thousand dollars (\$3,000) per annum, for all services rendered as assessor. He shall have one deputy at an annual salary of thirteen hundred eighty dollars (\$1380) and ten deputies for three months whose per diem shall be four dollars (\$4) each when actually employed, and four deputies for four months whose per diem shall be four dollars (\$4) each when actually employed. He shall have four copyists for a period of four months each, at fifty dollars (\$50) per month each during such time. All sums collected by the assessor or his deputies either as personal property taxes, poll or road taxes, or the fees allowed by law for the making of the military roll shall be paid into the county treasury monthly as collected, with a statement of account of such collections.

8. The district attorney three thousand dollars (\$3,000) per annum. He shall have one deputy at a salary of eighteen hundred dollars (\$1800) per annum, and one deputy at a salary of twelve hundred dollars (\$1200) per annum. He shall also have a stenographer at an annual salary of nine hundred dollars (\$900).

9. The coroner such fees as are now or may hereafter be allowed by law.

10. The public administrator such fees as are now or may hereafter be allowed by law.

11. The superintendent of schools twenty-one hundred dollars (\$2100) per annum for all services rendered as such. He shall have one deputy at an annual salary of twelve hundred dollars (\$1200). The superintendent shall also be allowed actual traveling expenses when visiting the schools of his county.

12. The surveyor two thousand dollars (\$2,000) per annum in full compensation for all services as county surveyor as road viewer and road inspector and his actual expenses when at work in the field. He shall have one deputy at an annual salary of nine hundred and sixty dollars (\$960).

13. (a) The registered population of the several judicial townships of this county is hereby determined to be the registered vote as shown by the great register of the county in the office of the county clerk. The salaries of the several township officers shall be determined by the registered voting population as shown by said register at the general election of the preceding even numbered year, and are as follows, to wit:

Judicial Township No. 1.....	275 (Firebaugh)
Judicial Township No. 2.....	621 (Clovis)
Judicial Township No. 3.....	5618 (Fresno)
Judicial Township No. 4.....	822 (Fowler)
Judicial Township No. 5.....	827 (Selma)
Judicial Township No. 6.....	542 (Coalinga)
Judicial Township No. 7.....	953 (Sanger)

Judicial Township No. 8.....	512 (Reedley)
Judicial Township No. 9.....	283 (Kingsburg)
Judicial Township No. 10.....	466 (Letcher)
Judicial Township No. 11.....	67 (Lemoore)
Judicial Township No. 12.....	73 (Polasky)
Judicial Township No. 13.....	322 (Laton)

(b) For the purpose of regulating the compensation of justices of the peace and persons performing the duties of justice of the peace, and constables, townships of this class of counties are hereby classified according to the registered voting population as shown by the great register of the county.

Townships having a registered voting population of 5,000 and more shall belong to and known as townships of the fifth class; townships having a like population of 1,000 and less than 5,000 shall belong to and be known as townships of the second class; townships having a like population of 800 and less than 1,000 shall belong to and be known as townships of the third class; townships having a like population of 500 and less than 800 shall belong to and be known as townships of the fourth class; townships having a like population of 250 and less than 500 shall belong to and be known as townships of the fifth class; townships having a like population of 250 and less shall belong to and be known as townships of the sixth class.

(c) Justices of the peace and persons performing duties of justices of the peace shall receive the following monthly salaries to be paid each month as the county officers are paid, and the same shall be in full compensation for all services rendered in criminal cases, and shall include their office rent, to wit:

In townships of the first class, one hundred and seventy-five dollars.

In townships of the second class, one hundred dollars.

In townships of the third class, eighty dollars.

In townships of the fourth class, sixty dollars.

In townships of the fifth class, forty dollars.

In townships of the sixth class, twenty dollars.

In addition to the monthly salaries herein allowed each justice of the peace may receive and retain for his own use, such fees as are now or may hereafter be allowed by law for all services rendered by him in civil actions. Each justice of the peace must pay into the county treasury once a month, all fines collected by him.

14. Constables shall receive the following monthly salaries, to be paid each month as the county officers are paid, and shall be in full compensation for all services rendered by them in criminal cases, to wit:

In townships of the first class, one hundred dollars.

In townships of the second class, ninety dollars.

In townships of the third class, eighty dollars.

In townships of the fourth class, sixty dollars.

In townships of the fifth class, forty dollars.

In townships of the sixth class, twenty dollars.

In addition to the monthly salaries herein allowed each constable may receive and retain for his own use, such fees as are now or may hereafter

be allowed by law for all services rendered by him in civil action; and shall be also allowed all necessary expenses actually incurred in arresting and conveying prisoners to court or prison, which expenses shall be audited by the board of supervisors and paid out of the county treasury; provided, further, that when any constable is required to go out of his own county to serve a warrant of arrest, or any other paper in a criminal case, he shall be allowed mileage in going and returning outside of his own country at the rate of five cents per mile.

15. The supervisors shall receive each the sum of fifteen hundred dollars per annum, paid monthly in installments of one hundred and twenty-five dollars per month, in full compensation for all services rendered either as supervisors or road overseers.

16. Jurors' fees in criminal cases shall be as follows: For attending as a grand juror or a trial juror in the superior court, in criminal cases only, for each day's attendance, per day three dollars, for each mile actually traveled in attending court as such juror under summons or under order of court, in criminal cases, in going only, per mile, fifteen cents, and the county clerk shall certify to the auditor the number of days' attendance and number of miles traveled by each juror, and the auditor shall then draw his warrant therefor and the treasurer shall pay the same.

17. The salaries of all county and township officers shall be payable in installments monthly on the first day of each month. [Amendment approved March 20, 1895. Stats. 1905, p. 435. In effect sixty days.]

§ 165. In counties of the eighth class, the county officers shall receive as compensation for the services required of them by law, or by virtue of their office, the following salaries, to wit:

1. The county clerk, three thousand dollars per annum.

2. The sheriff, three thousand dollars per annum; the sheriff shall also receive for his own use and benefit the fees for mileage which are now or which may hereafter be allowed by law, and the fees or commissions for the service of all papers whatsoever issued by any court of the state outside of his county; and shall also receive his necessary expenses in all criminal cases.

3. The recorder, two thousand dollars per annum.

4. The auditor, one thousand dollars per annum.

5. The treasurer, two thousand dollars per annum, and such commissions as are now or may hereafter be allowed by law.

6. The tax collector, one thousand dollars per annum, and ten per cent on all licenses collected, which shall be in full for all services as tax collector and license collector.

7. The assessor, eleven thousand five hundred dollars per annum; the assessor shall turn over to the county all fees and commissions for the collection of poll tax, personal property tax and for making up the military roll. The assessor shall make all maps and plats and shall bind in book form, alphabetically arranged, all assessment lists; provided, there shall be no charge against the county for the making of said maps, plats, and said binding, except for the material furnished in the making of said maps and plats and binding of said assessment lists.

8. The district attorney, three thousand dollars per annum.
9. The coroner, such fees as are now or may be hereafter allowed by law.
10. The public administrator, such fees as are now or may be hereafter allowed by law.
11. The superintendent of schools, twenty-four hundred dollars per annum, and actual traveling expenses when visiting the schools of his county, said expenses not to exceed six hundred dollars in one year.
12. The surveyor, such fees as are now or may be hereafter allowed by law.
13. Justices of the peace shall receive the following salaries for all services rendered by them in criminal cases, payable in the same manner as county officers are paid, viz:
In townships having a population of fourteen thousand or more, one hundred dollars per month; in townships having a population of not less than five thousand nor more than fourteen thousand, sixty-five dollars per month; in townships having a population of not less than three thousand nor more than five thousand, fifty dollars per month; in townships having a population of not less than two thousand nor more than three thousand, forty-five dollars per month; in townships having a population of not less than one thousand four hundred nor more than two thousand, thirty-five dollars per month; in all townships having a population of less than one thousand four hundred, fifteen dollars per month; justices of the peace in counties of this class shall also receive for their own use and benefit such fees as are now or may be hereafter allowed by law in civil cases.
14. Constables shall receive the following salaries for all services rendered by them in criminal cases, payable monthly in the same manner as county officers are paid, viz.: In townships having a population of fourteen thousand or more, eighty-five dollars per month; in townships having a population of not less than five thousand nor more than fourteen thousand, sixty-five dollars per month; in townships having a population of not less than three thousand nor more than five thousand, fifty dollars per month; in townships having a population of not less than two thousand nor more than three thousand, forty-five dollars per month; in townships having a population of not less than one thousand four hundred nor more than two thousand, thirty-five dollars per month; in all townships having a population of less than one thousand four hundred, fifteen dollars per month; constables in counties of this class shall also receive for their own use and benefit such fees as are now or may be hereafter allowed by law for mileage in criminal cases and shall also receive such fees as are now or may hereafter be allowed by law in civil cases.
15. Each member of the board of supervisors, nine hundred dollars per annum, and their necessary expenses when attending to the business of the county, other than the meetings of the board; and fifteen cents a mile in traveling to and from his residence to the county seat; provided, that not more than one mileage at any one term of the board shall be allowed.

be allowed by law for all services rendered by him in civil action; and shall be also allowed all necessary expenses actually incurred in arresting and conveying prisoners to court or prison, which expenses shall be audited by the board of supervisors and paid out of the county treasury; provided, further, that when any constable is required to go out of his own county to serve a warrant of arrest, or any other paper in a criminal case, he shall be allowed mileage in going and returning outside of his own country at the rate of five cents per mile.

15. The supervisors shall receive each the sum of fifteen hundred dollars per annum, paid monthly in installments of one hundred and twenty-five dollars per month, in full compensation for all services rendered either as supervisors or road overseers.

16. Jurors' fees in criminal cases shall be as follows: For attending as a grand juror or a trial juror in the superior court, in criminal cases only, for each day's attendance, per day three dollars, for each mile actually traveled in attending court as such juror under summons or under order of court, in criminal cases, in going only, per mile, fifteen cents, and the county clerk shall certify to the auditor the number of days' attendance and number of miles traveled by each juror, and the auditor shall then draw his warrant therefor and the treasurer shall pay the same.

17. The salaries of all county and township officers shall be payable in installments monthly on the first day of each month. [Amendment approved March 20, 1895. Stats. 1905, p. 435. In effect sixty days.]

§ 165. In counties of the eighth class, the county officers shall receive as compensation for the services required of them by law, or by virtue of their office, the following salaries, to wit:

1. The county clerk, three thousand dollars per annum.
2. The sheriff, three thousand dollars per annum; the sheriff shall also receive for his own use and benefit the fees for mileage which are now or which may hereafter be allowed by law, and the fees or commissions for the service of all papers whatsoever issued by any court of the state outside of his county; and shall also receive his necessary expenses in all criminal cases.
3. The recorder, two thousand dollars per annum.
4. The auditor, one thousand dollars per annum.
5. The treasurer, two thousand dollars per annum, and such commissions as are now or may hereafter be allowed by law.
6. The tax collector, one thousand dollars per annum, and ten per cent on all licenses collected, which shall be in full for all services as tax collector and license collector.
7. The assessor, eleven thousand five hundred dollars per annum; the assessor shall turn over to the county all fees and commissions for the collection of poll tax, personal property tax and for making up the military roll. The assessor shall make all maps and plats and shall bind in book form, alphabetically arranged, all assessment lists; provided, there shall be no charge against the county for the making of said maps, plats, and said binding, except for the material furnished in the making of said maps and plats and binding of said assessment lists.

8. The district attorney, three thousand dollars per annum.

9. The coroner, such fees as are now or may be hereafter allowed by law.

10. The public administrator, such fees as are now or may be hereafter allowed by law.

11. The superintendent of schools, twenty-four hundred dollars per annum, and actual traveling expenses when visiting the schools of his county, said expenses not to exceed six hundred dollars in one year.

12. The surveyor, such fees as are now or may be hereafter allowed by law.

13. Justices of the peace shall receive the following salaries for all services rendered by them in criminal cases, payable in the same manner as county officers are paid, viz.:

In townships having a population of fourteen thousand or more, one hundred dollars per month; in townships having a population of not less than five thousand nor more than fourteen thousand, sixty-five dollars per month; in townships having a population of not less than three thousand nor more than five thousand, fifty dollars per month; in townships having a population of not less than two thousand nor more than three thousand, forty-five dollars per month; in townships having a population of not less than one thousand four hundred nor more than two thousand, thirty-five dollars per month; in all townships having a population of less than one thousand four hundred, fifteen dollars per month; justices of the peace in counties of this class shall also receive for their own use and benefit such fees as are now or may be hereafter allowed by law in civil cases.

14. Constables shall receive the following salaries for all services rendered by them in criminal cases, payable monthly in the same manner as county officers are paid, viz.: In townships having a population of fourteen thousand or more, eighty-five dollars per month; in townships having a population of not less than five thousand nor more than fourteen thousand, sixty-five dollars per month; in townships having a population of not less than three thousand nor more than five thousand, fifty dollars per month; in townships having a population of not less than two thousand nor more than three thousand, forty-five dollars per month; in townships having a population of not less than one thousand four hundred nor more than two thousand, thirty-five dollars per month; in all townships having a population of less than one thousand four hundred, fifteen dollars per month; constables in counties of this class shall also receive for their own use and benefit such fees as are now or may be hereafter allowed by law for mileage in criminal cases and shall also receive such fees as are now or may hereafter be allowed by law in civil cases.

15. Each member of the board of supervisors, nine hundred dollars per annum, and their necessary expenses when attending to the business of the county, other than the meetings of the board; and fifteen cents a mile in traveling to and from his residence to the county seat; provided, that not more than one mileage at any one term of the board shall be allowed.

16. The bonds of the clerk, sheriff, recorder, auditor, treasurer, tax collector, assessor, district attorney, coroner, public administrator, superintendent of schools and surveyor, shall be executed with a reliable bond and security company and that the cost of said bond, when duly approved shall be a charge against the county, and payable out of the general fund.

17. The county clerk shall have one chief deputy, at a salary of fifteen hundred dollars per annum; two court room deputies, at a salary of one thousand and eighty dollars per annum each, and a deputy or deputies not to exceed ten, for the purpose of registering electors and for other emergencies, to be paid not to exceed three dollars per diem each.

The county recorder, one deputy, at a salary of fifteen hundred dollars per annum, three deputies at a salary of one thousand and eighty dollars per annum each.

The treasurer, one deputy at a salary of two thousand dollars per annum; and a deputy for the purpose of collecting taxes and for other emergencies, to be paid not to exceed four dollars per diem.

The district attorney, an assistant district attorney, at a salary of eighteen hundred dollars per annum, and a deputy district attorney, at a salary of twelve hundred dollars per annum.

The superintendent of schools, one deputy, at a salary of nine hundred dollars per annum.

The sheriff, an under-sheriff, who shall receive a salary of eighteen hundred dollars per annum; a clerk who shall receive a salary of one thousand and eighty dollars per annum; two deputy sheriffs, who shall receive a salary of one thousand and eighty dollars per annum each; two bailiffs or courtroom deputies, who shall receive a salary of one thousand and eighty dollars per annum each; two jailers, who shall receive a salary of one thousand and eighty dollars per annum each; and a deputy or deputies not to exceed two, for the purpose of serving papers and for other emergencies to be paid not to exceed three and a half dollars per diem each. All the deputies, assistants, and clerks herein mentioned shall be paid at the time and in the manner that the principals are paid from and after the approval of this act. [Amendment approved March 20, 1905. Stats. 1905, p. 507. In effect from and after January 1, 1907.]

§ 166. In counties of the ninth class the county officers shall receive, as compensation for the services required of them by law or by virtue of their office, the following salaries, to wit:

1. The county clerk, seven thousand six hundred dollars per annum.

2. The sheriff, seven thousand eight hundred dollars per annum; and the sheriff shall also receive for his own use and benefit the fees or commissions for the service of all papers whatsoever, issued by any court of the state outside of his county. And the board of supervisors shall allow the sheriff his actual and necessary expenses in serving any civil or criminal process, or performing any other official duty within his county at a distance, by the ordinary route of travel, of more than sixty miles from the county seat.

3. The recorder, the fees now allowed by law pertaining to said recorder's office; provided, that the fee for filing, indexing, and canceling tax sale certificates for land sold to the state for delinquent taxes shall be fifteen cents for each certificate, and for filing, recording, and indexing tax deeds to the state, the fee shall be seventy-five cents each, all of which shall be paid out of the county treasury in the same manner that other claims are paid; provided, that the fee to be charged by the recorder for filing certificates of tax sale issued by the tax collector of any municipality within any county of the ninth class shall be one dollar for each volume, when the same is bound in book form; each of said volumes shall contain not less than two hundred of such tax certificates; provided, that all books of record, printing, and stationery shall be furnished and paid for by the recorder out of his fees; the style and quality of the same to be approved by the board of supervisors.

4. The auditor, five thousand five hundred dollars per annum.

5. The treasurer, three thousand dollars per annum.

6. The tax collector, seven thousand dollars per annum, which shall include all fees and percentage as license collector.

7. The assessor, six thousand five hundred dollars per annum, and such fees as are allowed by law.

8. The district attorney, five thousand dollars per annum.

9. The superintendent of public schools, twenty-five hundred dollars per annum. He shall have one deputy at an annual salary of twelve hundred dollars.

10. The public administrator, such fees as are now or may hereafter be allowed by law.

11. The coroner, seventy-five dollars per month, and in addition thereto the board of supervisors shall allow the coroner his actual traveling expenses in the performance of his official duties within his county at a distance by the ordinary route of travel of more than sixty miles from the county seat.

12. The surveyor, three thousand dollars per annum, which shall be in lieu of all fees and per diem now allowed by law.

13. Constables, in civil cases such fees as are now or may hereafter be allowed by law; and in criminal cases in townships having a population of sixteen thousand or more in lieu of fees now allowed by law the sum of one hundred dollars per month; and in all townships having a population of less than sixteen thousand, such fees as are now or may hereafter be allowed by law; provided, however, that no constable in such township shall be allowed in any one month out of the county treasury more than seventy-five dollars as fees in misdemeanor cases; provided further, that in such townships they shall receive for each day's attendance in criminal cases when required by the justice to be present two dollars per day; provided further, that in all townships the constables thereof for taking persons to the county jail actual traveling expenses only shall be allowed in lieu of mileage.

14. Justices of the peace, in all townships having a population of sixteen thousand or more, one hundred and fifty dollars per month in full of all compensation in both civil and criminal cases; in townships hav-

ing a population of less than sixteen thousand such fees as are now or may hereafter be allowed by law; provided, however, that no justices of the peace in such township shall be allowed in any one month out of the county treasury more than seventy-five dollars in misdemeanor cases.

The board of supervisors of such county shall furnish the township justice of the peace and the constables in townships having a population of sixteen thousand or more with suitable courtroom and furniture for said justice of the peace, and an office with necessary and proper furniture therefor, for each of said constables.

15. Each member of the board of supervisors, five hundred dollars per annum, and fifteen cents per mile in going from his residence to the county seat at each meeting of the board. Also, four hundred dollars per annum each, and mileage now allowed by law, for services as road commissioners.

16. In counties of this class the official reporters of the superior court shall receive, as full compensation for taking notes in civil and criminal cases tried in said court, and on all lunacy and preliminary examinations and coroner's inquests, a monthly salary of one hundred and twenty-five dollars, payable out of the county treasury at the same time and in the same manner as the salaries of the county officers; and for transcription of said notes, when required, he shall receive the sum of ten cents per folio for the original, and five cents per folio per copy; said compensation for transcription in criminal cases and coroner's inquests to be audited and allowed by the board of supervisors as other claims against the county, and paid out of the county treasury, and in civil cases to be paid by the party ordering the same, or when ordered by the judge, by either party, or jointly by both parties, as the court may direct.

17. In counties of this class there shall be but one horticultural commissioner.

18. Each member of the board of education shall receive five dollars per day for not to exceed sixty days in any one year as compensation for his services when in actual attendance upon said board, and mileage at the rate of twenty cents per mile, one way only, from his residence to the place of meeting of said board. The secretary of said board of education shall receive five dollars per day for not to exceed sixty days in any one year for his services for the actual time that the board may be in session. Said compensation of the members of said board and of said secretary shall be paid out of the same fund as the salary of the superintendent of schools. Claims of such services and mileage shall be presented to the board of supervisors and shall be allowed at the rate above named and in the same manner as other claims against the county are allowed. The compensation of the members of the county board of education herein provided is not in addition to that provided in section seventeen hundred and seventy of the Political Code. [Amendment approved March 20, 1905. Stats. 1905, p. 401. In effect immediately.]

§ 167. In counties of the tenth class the county officers shall receive as compensation for the services required of them by law, or by virtue of their office, the following salaries, and shall have as assistants the respective employees hereafter named, to wit:

1. The county clerk, four thousand three hundred dollars per annum, and the sum of five hundred dollars for making the great register, and ten cents for each person registered, and there shall be, and there is hereby allowed to the county clerk in addition, one deputy, to be appointed by the county clerk, who shall be paid a salary of one thousand dollars per annum, the said salary to be paid by such county in monthly installments, at the time, and in the manner and out of the same fund as the salaries of county officers are paid.

2. The sheriff, five thousand three hundred dollars per annum, and all commissions, fees and mileage for the service of papers or process coming from courts other than those of his own county, and there shall be, and there is hereby created the office of jailer, to be appointed by the sheriff, who shall be paid a salary of one thousand two hundred dollars per annum, said salary to be paid by such county in monthly installments, at the time and in the manner and out of the same fund as the salaries of county officers are paid.

3. The recorder, one thousand five hundred dollars per annum, and six cents per folio for recording, and four hundred and fifty dollars per year for abstract of mortgages for the county assessor.

4. The auditor, two thousand four hundred dollars per annum, and there shall be, and there is allowed to the auditor in addition, one deputy, to be appointed by the auditor, who shall be paid a salary of one thousand dollars per annum, and there shall be, and there is allowed to the auditor in addition, three clerks to be appointed by the auditor, who shall be paid a salary of seventy-five dollars per month each, not to exceed one month in any one year; said salaries to be paid by such county in monthly installments at the time and in the manner and out of the same fund as the salaries of county officers are paid.

5. The treasurer, two thousand four hundred dollars per annum.

6. The tax collector, three thousand two hundred dollars per annum; and there shall be, and there is allowed to the tax collector in addition, one deputy, to be appointed by the tax collector, who shall be paid a salary of one thousand dollars per annum, said salary to be paid by such county in monthly installments at the time and in the manner and out of the same fund as the salaries of county officers are paid; provided, however, that in counties of this class, the tax collector shall receive no fees or commissions for the collection of licenses.

7. The assessor, five thousand five hundred dollars per annum, and there shall be, and there is allowed to the assessor, in addition, one deputy, to be appointed by the assessor, who shall be paid a salary of seventy-five dollars per month, not to exceed six months in any one year, said salary to be paid by such county in monthly installments at the time and in the manner and out of the same fund as the salaries of county officers are paid; provided, however, that the percentage received by the assessor on poll taxes and personal property taxes, and also amounts allowed for returning names of persons subject to military duty, and which, in counties of other classes, is allowed to the assessor as compensation, shall be paid by him into the county treasury, and no part thereof shall be received by him as compensation.

8. The district attorney, three thousand dollars per annum, and there shall be, and there is allowed to the district attorney in addition, one deputy, to be appointed by the district attorney, who shall be an attorney at law regularly admitted to practice before the supreme court of the state of California, who shall be paid a salary of one thousand two hundred dollars per annum, said salary to be paid by such county in monthly installments at the time and in the manner and out of the same fund as the salaries of county officers are paid.

9. The coroner, such fees as are now or may hereafter be allowed by law.

10. The public administrator, such fees as are now or may hereafter be allowed by law.

11. The superintendent of schools for full services including attendance on the county board of education, one thousand eight hundred dollars per annum, and actual traveling expenses, and there shall be, and there is allowed to the superintendent in addition, a deputy, who shall be appointed by the superintendent of schools, who shall be paid a salary of one thousand dollars per annum, said salary to be paid by such county in monthly installments at the time and in the manner and out of the same fund as the salaries of county officers are paid. The office of the superintendent of schools shall be kept open on all business days from nine o'clock A. M. to five o'clock P. M.

12. Each member of the board of education shall receive five dollars per day as compensation for his services when in actual attendance upon said board, and mileage at the rate of twenty cents per mile, one way only, from his residence to the place of meeting of said board. The secretary of said board of education shall receive five dollars per day for his services for the actual time that the board may be in session. Said compensation of the members of said board and of said secretary shall be paid out of the same fund as the salary of the superintendent of schools is paid. Claims of such services and mileage shall be presented to the board of supervisors and shall be allowed at the rate above named and in the same manner as other claims against the county are allowed. The compensation of the members of the county board of education herein provided is not in addition to that provided in section one thousand seven hundred and seventy of the Political Code.

13. The surveyor, one thousand five hundred dollars per annum, and in addition thereto all necessary expenses, incurred in performing county work, ordered by the board of supervisors.

14. The justices of the peace, the following monthly salaries, to be paid each month as salaries of other county officers are paid, which shall be in full for all services rendered by them in criminal cases:

In townships having a population of six thousand and over, ninety dollars per month.

In townships having a population of two thousand four hundred and less than six thousand, seventy-five dollars per month.

In townships having a population of one thousand five hundred and less than two thousand four hundred, sixty dollars per month.

In townships having a population of eight hundred and less than one thousand five hundred, fifty dollars per month.

In townships having a population of five hundred and less than eight hundred, twenty dollars per month.

In townships having a population less than five hundred, ten dollars per month.

In addition to the above salaries, each justice of the peace shall collect for his own use in civil cases such fees as are now or may hereafter be allowed by law.

15. Constables, the following monthly salaries, to be paid each month as the salaries of county officers are paid, which shall be in full for all services rendered by them in criminal cases:

In townships having a population of five thousand and more, eighty-five dollars per month; in townships having a population of two thousand five hundred and less than five thousand, sixty-five dollars per month; in townships having a population of fifteen hundred and less than two thousand five hundred, sixty dollars per month; in townships having a population of eight hundred and less than fifteen hundred, fifty dollars per month; in townships having a population of five hundred and less than eight hundred, twenty dollars per month; in townships having a population less than five hundred, ten dollars per month. In addition to the monthly salary allowed herein, each constable may receive and retain for his own use such fees as are now or may hereafter be allowed by law for all services performed by him in civil actions.

The population of townships shall, for the purpose of this section, be determined by the last preceding United States census, and in case townships are formed after the taking of the census, then the population shall be determined by multiplying the vote for governor cast in such township, at the last preceding election, by four.

16. The supervisors each the sum of one hundred and twenty-five dollars per month as supervisors and road commissioners, and actual traveling expenses not to exceed five hundred dollars in any one year; vouchers for said traveling expenses shall be filed with the proper officer.

17. The official reporter of each department of the superior court shall be and he is hereby constituted a county officer and shall receive, as full compensation for taking notes in civil and criminal cases tried in said courts, a salary of one thousand eight hundred dollars per annum, payable in equal monthly installments, out of the county treasury, at the same time and in the same manner as the salaries of other county officers; he shall without further compensation act as the secretary of the judge of such department of the superior court; and for transcription of said notes, when required, they shall receive the sum of twenty cents per folio for the original, and five cents per folio for a copy, and also actual traveling expenses, when reporting outside of the county seat. Said compensation for transcribing in criminal cases, preliminary examinations, and inquests, and traveling expenses, to be audited and allowed by the board of supervisors as other claims against the county, and paid out of the county treasury; and in civil cases, to be paid by the party ordering the same, or, when ordered by the judge, by either party or jointly by both parties as the court may direct. [Amended March 20, 1905. Stats. 1905, p. 424. In effect in sixty days.]

§ 168. In counties of the eleventh class, the county and township officers shall receive, as compensation for the services required of them by law, or by virtue of their office, the following salaries, to wit:

1. The county clerk, three thousand six hundred dollars per annum; and there shall be, and there hereby is allowed to the county clerk, two deputies who shall be appointed by the county clerk and shall each be paid a salary of twelve hundred dollars per annum.

2. The sheriff shall receive five thousand dollars per annum; and there shall be and there hereby is allowed to the sheriff, one deputy, who shall be appointed by the sheriff and shall be paid a salary of one thousand five hundred dollars per annum.

3. The recorder, two thousand five hundred dollars per annum, and there shall be and there is hereby allowed to the county recorder two deputies who shall be appointed by the recorder and shall be paid a salary of seven hundred and fifty dollars per annum each.

4. The auditor shall receive two thousand seven hundred dollars per annum.

5. The treasurer shall receive two thousand four hundred dollars per annum.

6. The tax collector shall receive two thousand eight hundred dollars per annum.

7. The license collector shall receive ten per cent of all licenses collected by him.

8. The assessor shall receive four thousand five hundred dollars per annum. He may employ such assistance as may be necessary in making maps, plats and drawings essential for use in the assessor's office in the performance of his duty and the expense thereof shall be a charge against the county.

9. The district attorney shall receive two thousand four hundred dollars per annum; and there is hereby allowed to the district attorney one deputy to be appointed by him who shall receive a salary of one thousand dollars per annum.

10. The coroner shall receive such fees, as are now, or may hereafter be allowed by law.

11. The public administrator shall receive such fees as are now, or may hereafter be allowed by law.

12. The superintendent of schools, two thousand dollars per annum; and there shall be and there is hereby allowed to the superintendent of schools, one deputy, who shall be appointed by the superintendent of schools, and shall be paid a salary of seven hundred and fifty dollars per annum.

13. The surveyor shall receive two thousand dollars per annum; and necessary traveling expenses while in the performance of the duties of his office.

14. Each supervisor nine hundred dollars per annum, and mileage at twenty cents per mile, for all distances traveled by him as supervisor or as road commissioner; such mileage not to exceed, in any one year, the sum of seven hundred and fifty dollars.

15. The official shorthand reporter shall receive two thousand dollars per annum for the department of the superior court to which he has been

appointed. Whenever one reporter shall be appointed to, and shall perform the duties required of the official shorthand reporter, for more than one department of said superior court he shall receive a salary therefor of two thousand five hundred dollars per annum. In addition thereto, he shall receive for transcribing notes, the sum of ten cents per folio, for the original, and five cents per folio for all copies thereof. Subdivision fifteen hereof, relating to the salaries and fees of official shorthand reporters, shall take effect immediately.

16. In townships having a population of seven thousand or over, two justices of the peace shall be elected, and each shall receive a salary of fifty dollars per month. In townships having a population of less than seven thousand and over four thousand there shall be but one justice of the peace elected and he shall receive a salary of thirty dollars per month. In all other townships there shall be but one justice of the peace who shall receive a salary of twenty dollars per month. All justices in counties of this class shall, in addition to the salaries above provided for, receive and collect for their own use and benefit, in civil cases, the following fees, to wit:

1. Each justice of the peace shall be allowed, in civil actions for all services before trial or entry of judgment, by default or confession, two dollars, and for all additional services in such action, including execution and satisfaction of judgment, two dollars.

2. For the trial of civil actions and all proceedings subsequent thereto, three dollars.

3. For certificate and transmitting papers and transcript on appeal, one dollar.

4. For copies of papers on docket per folio, ten cents.

5. For issuing a search-warrant, the fee to be paid by the party demanding the same, one dollar.

6. For celebrating a marriage, and returning a certificate thereof to the county recorder, five dollars.

7. For taking an acknowledgment of an instrument, for the first name fifty cents, and for each additional name twenty-five cents.

8. For administering an oath, and certifying the same, fifty cents.

9. For issuing a commission to take testimony, one dollar.

10. For all services connected with the posting of estrays, one dollar.

11. For issuing each affidavit, certificate, process, writ, order, or paper required by law to be issued, not otherwise herein provided for, twenty-five cents.

13. For taking bail in all proceedings, pending before another magistrate, fifty cents.

14. In townships having a population of seven thousand or over two constables shall be elected and each shall receive a salary of forty dollars per month. In townships having a population less than seven and over four thousand, there shall be but one constable elected, and he shall receive a salary of twenty-five dollars per month. In all other townships there shall be but one constable who shall receive twenty dollars per month.

All constables in addition to the salaries above provided for, shall receive and collect, for their own use and benefit, in civil cases only, the following fees, to wit:

1. For serving summons and complaint, for each defendant served, fifty cents.

2. For each copy of summons made by him, twenty-five cents.

3. For levying writ of attachment or execution, or executing an order of arrest, in a civil case or for delivery of personal property, two dollars.

4. For serving a writ of attachment or execution on any ship, boat, or vessel, three dollars.

5. For keeping personal property, such sum as the court may order; but no more than two dollars fifty cents per day, for a keeper, when necessarily employed.

6. For taking a bond or undertaking, one dollar.

7. For copies of writs or other papers, except summons, complaints, and subpoenas, per folio, fifteen cents; provided, that when correct copies are furnished him for use, no charges shall be made for such copies.

8. For serving any writ, notice or order, except summons, complaint, or subpoena, for each person served, fifty cents.

9. For writing and posting each notice of sale of property, fifty cents.

10. For furnishing notice of publication, twenty-five cents.

11. For serving subpoenas, each witness including copy, fifty cents.

12. For collecting money on execution two and one-half per cent.

13. For executing and delivering certificate of sale, fifty cents.

14. For executing and delivering constable's deed, two dollars and fifty cents.

15. For each mile actually traveled within his county, in the service of any civil writ, order, or paper, in going only, per mile, twenty-five cents. No constructive mileage shall be allowed.

16. For each mile necessarily traveled within his county, in executing a warrant of arrest, both in going to and returning from the place of arrest, fifteen cents; and the actual cost of the transportation of the prisoner or prisoners from the place of arrest to the justice court, and the necessary expense of assistance; provided, that for traveling in performance of two or more official services at the same time, including the service of criminal process, but one mileage shall be charged.

17. For each mile necessarily traveled outside his county in executing a warrant of arrest, both in going to and returning from the place of arrest, fifteen cents.

18. For transporting prisoners to the county jail, from the justice's court or from the county jail to the justice's court, the actual cost of transportation and assistance, and mileage at twenty-five cents per mile, one way. In conveying two or more prisoners, but one mileage shall be charged.

19. For each day in which the constable is charged with the custody of a prisoner or prisoners, two dollars fifty cents, and for necessary expense of maintenance and assistance in keeping said prisoners.

20. For summoning a jury in a civil case, twenty-five cents for each of the persons so summoned, and mileage at the rate of twenty-five cents per mile, going only.

21. For attending court during the trial of a civil cause, per day, three dollars.

22. For making sales of estrays in civil cases, the same fees as for sales on execution.

23. For serving writ of possession or restitution, putting a person in possession of the premises, and removing the occupants therefrom three dollars per day, and mileage at twenty-five cents per mile, going only.

24. The mileage provided for herein shall be computed for the shortest practicable traveled route between the two points for which mileage is claimed.

17. All salaries provided for in this act shall be paid out of the treasury of the county in monthly installments, and all fees shall be paid from the county treasury as other bills against the county are paid. [Amendment approved March 20, 1905. Stats. 1905, p. 524. In effect in part immediately and in part in sixty days.]

§ 169. In counties of the twelfth class the county officers shall receive, as compensation for the services required of them by law or by virtue of their offices, the following salaries, to wit:

1. The county clerk, three thousand dollars per annum, and when a great register of voters is ordered he shall receive five hundred dollars additional, which shall be in full for all services rendered in registering voters and making the great register.

2. The sheriff, four thousand five hundred dollars per annum, and the fees or commissions for the service of all papers whatsoever issued by any court outside of his county. He shall appoint a jailer to take charge of the branch county jail, at a salary of six hundred dollars per annum, to be paid by the county.

3. The recorder, twenty-two hundred and fifty dollars per annum.

4. The auditor, eighteen hundred dollars per annum.

5. The treasurer, eighteen hundred dollars per annum.

6. The tax collector, (fifteen hundred) three thousand dollars per annum.

7. The assessor, three thousand dollars per annum.

8. The district attorney, two thousand dollars per annum.

9. The coroner, such fees as are now or may be hereafter allowed by law.

10. The public administrator, five hundred dollars per annum.

11. The superintendent of schools, fifteen hundred dollars per annum, and his actual traveling expenses while visiting schools.

12. The surveyor shall receive seven dollars per diem for each day actually employed in the performance of his duties as a county officer, and in addition thereto all necessary expenses, such as transportation and pay of help which may be necessary for the performance of county duties.

13. Justices of the peace, the following monthly salaries, to be paid each month as the salaries of county officers are paid, which shall be in full for all services rendered by them in criminal cases: In townships having a population of six thousand or more, one hundred dollars per month; in townships having a population of two thousand four hundred and less than six thousand, seventy-five dollars; in townships having a population of two thousand and less than two thousand four hundred,

sixty-five dollars; in townships having a population of one thousand five hundred and less than two thousand, fifty-five dollars; in townships having a population of one thousand and less than one thousand five hundred, thirty dollars; in townships having a population of eight hundred and less than one thousand, twenty dollars; in townships having a population of five hundred and less than eight hundred, fifteen dollars; in townships having a population of less than five hundred, ten dollars. Each justice must pay into the county treasury once a month, all fines collected by him. In addition to the monthly salary allowed herein, each justice may receive for his own use such fees as now or hereafter may be allowed by law for all services performed by him in civil actions.

14. Constables, the following salaries which shall be paid monthly as salaries of county officers are paid, and which shall be in full for all services rendered by them in criminal cases, to wit: In townships having a population of two thousand one hundred and more, one hundred dollars; in townships having a population of one thousand five hundred and less than two thousand five hundred, eighty dollars; in townships having a population of one thousand and less than one thousand five hundred, fifty dollars; in townships having a population of eight hundred and less than one thousand, thirty dollars; in townships having a population of five hundred and less than eight hundred, fifteen dollars; in townships having a population less than five hundred, ten dollars. In addition to the monthly salary allowed herein, each constable may receive and retain for his own use such fees as are now or hereafter may be allowed by law for all services performed by him in civil actions. For the purposes of this act the basis of calculation for fixing the compensation of the justices and constables above mentioned, the population of the different townships of the county shall always be based upon the figures as shown by the last United States census; provided, however, that whenever the census of any township or townships shall have been taken under the provisions of this act, said census may become the basis of calculation.

15. Each member of the board of supervisors, six hundred dollars for all services rendered and including mileage; provided, that when required to go on business to any point outside of said county they shall be allowed actual necessary expenses.

16. The official court reporter for all services required of him in the superior court, excepting for transcribing his notes, a salary of one thousand five hundred dollars per annum, to be paid by the county monthly as the salaries of county officers are paid. For transcribing his notes of testimony in the superior court when required seven cents per folio for original and four cents per folio for copies to be paid for when completed by the party in a civil action who directs the work to be done, but the same shall ultimately be taxed as costs in the case. In criminal proceedings in the superior court when the judge orders the notes transcribed the same shall be paid from the county treasury on the order of the court. When the services of the reporter are demanded in any civil matter the clerk shall collect each day in advance two dollars and fifty cents from each side to the controversy, and pay the same into the county treasury. At the conclusion of the trial or proceeding, in civil matters, such report-

ers' fees shall be taxed as costs in the same manner that other costs are taxed in the case.

17. Members of the county board of education shall receive ten cents per mile for traveling from his or her residence to the county seat; provided, that mileage be not allowed for more than two meetings in any one month. [Amendment approved March 21, 1905. Stats. 1905, p. 676. In effect in sixty days.]

§ 170. In counties of the thirteenth class the county and township officers shall receive, as full compensation for the services required of them by law or by virtue of their offices, the following fees and salaries:

1. The county clerk, thirty-three hundred dollars per annum; provided, that in any year that the compilation of a great register is required by law to be made, he shall receive six hundred dollars additional for said year, which shall be in full for all services required in registering voters and making such new great register.

2. The sheriff, thirty-five hundred dollars per annum, and mileage for the service of any and all processes required by law to be served by him, at the rate of five cents per mile for every mile necessarily traveled in the performance of his duty or in the serving of papers of any kind.

3. The recorder, twenty-one hundred dollars, provided, however, that in counties of this class the recorder shall be entitled to the actual cost incurred by him for the recording of all papers and documents in his office not exceeding seven cents per folio for each paper or document so recorded; provided further, that said recorder shall file monthly, with the county auditor, a verified statement showing in detail the persons and the amounts paid to each for such recording.

4. The auditor, two thousand dollars per annum.

5. The treasurer, eighteen hundred dollars per annum.

6. The tax collector, twenty-four hundred dollars per annum, provided that said tax collector shall be allowed one clerk for the period of six months during each fiscal year who shall be appointed by said tax collector and be paid a salary of seventy-five dollars per month, the said salary to be paid by the said county in monthly installments at the same time, and in the same manner, and out of the same fund, as the salary of the tax collector is paid.

7. The assessor, eighteen hundred dollars per annum.

8. The district attorney, two thousand dollars per annum.

9. The coroner, such fees as are now or may be hereafter allowed by law.

10. The public administrator, such fees as are now or may be hereafter allowed by law.

11. The superintendent of schools, eighteen hundred dollars per annum, and actual traveling expenses when visiting the schools of his county.

12. The surveyor, such fees as are now or may be hereafter allowed by law.

13. Each supervisor. Each member of the board of supervisors, six hundred dollars per annum and actual mileage to and from the county seat while in the discharge of his official duties, and mileage as road commissioner, fifteen cents per mile, one way; provided the amount of mileage

for each supervisor shall not exceed the sum of three hundred dollars in any one year.

14. For the purpose of regulating the compensation of justices of the peace and constables, judicial townships in this class of counties are hereby classified according to their population as follows:

Townships containing a population of six thousand five hundred or more shall belong to and be known as townships of the first class; townships containing a population of less than six thousand five hundred and more than four thousand five hundred shall belong to and be known as townships of the second class; townships containing a population of less than four thousand five hundred and more than two thousand five hundred shall belong to and be known as townships of the third class; townships containing a population of less than two thousand five hundred and more than one thousand, shall belong to and be known as townships of the fourth class; townships containing a population of less than one thousand and more than eight hundred shall belong to and be known as townships of the fifth class; townships containing a population of less than eight hundred shall belong to and be known as townships of the sixth class. The population of the several judicial townships shall be determined for the purpose of this and the succeeding section, by multiplying by five the total vote cast in such townships for governor at the last general election held November fourth, nineteen hundred and two, as indicated by the official election returns of said election.

15. Justices of the peace shall receive the following fees and salaries, which shall be paid monthly in the same manner as the salaries of the county officers are paid, out of the general fund of the county, which shall be in full for all services rendered by them in criminal cases; provided, however, that if two justices of the peace shall be elected and qualify in any one township, then the said justices shall each receive one half of the salary therein provided for, to wit:

In townships of the first class, seventy-five dollars per month; in townships of the second class, fifty dollars per month; in townships of the third class, twenty-five dollars per month; in townships of the fourth class, fifteen dollars per month; in townships of the fifth class, five dollars per month; in townships of the sixth class, such fees as are now or may hereafter be allowed by law.

Each justice must pay into the county treasury once a month all fines collected by him. In addition to the monthly salaries herein allowed, each justice may receive and retain for his own use, such fees as are now or may hereafter be allowed by law for services rendered by him in civil cases; justices of the peace of the first and second classes shall be allowed their actual office rent, not to exceed the sum of fifteen dollars each, for any one month.

Constables shall receive the following fees and salaries which shall be paid monthly in the same manner as the salaries of the county officers are paid out of the general fund of the county, and which shall be in full for all services rendered by them in criminal cases, to wit:

In townships of the first class, thirty dollars per month; in townships of the second class, thirty dollars per month; in townships of the third

class, twenty dollars per month; in townships of the fourth class, fifteen dollars per month; in townships of the fifth class, five dollars per month; in townships of the sixth class, such fees as are now or may hereafter be allowed by law; provided, that in addition to the salary herein allowed, each constable shall be paid out of the treasury of the county for traveling expenses outside of his own township, for the service of a warrant of arrest or any other process in a criminal case (where such service is in fact made) both going and returning ten cents per mile; for each mile traveled out of his county, both going to and returning from the place of arrest or other service of process, five cents per mile; for transporting prisoners to the county jail, a constable shall be allowed his actual expenses each way. In addition to the monthly salary allowed him herein, each constable shall receive for his own use, in civil cases, the fees which are now or may hereafter be allowed by law.

The compensations herein provided for justices of the peace and constables shall take effect and be in force on and after the first Monday in April, nineteen hundred and three.

16. The official reporter of the superior court shall receive the fees allowed by law.

17. The compensation allowed each officer above enumerated shall be in full for all services, and include the pay of all deputies (except in the case of the district attorney wherein one deputy is provided for within the discretion of the board of supervisors) except as provided in section two hundred and fifteen of the county government act, approved eighteen hundred and ninety-seven, wherein it provides certain fees and commissions for the assessor and license collector. [Amended March 20, 1905. Stats. 1905, p. 547. In effect January 1, 1907, unless otherwise provided.]

§ 171. In counties of the fourteenth class the county and township officers shall receive as compensation for the services required of them by law or by virtue of their offices the following salaries and fees, to wit:

1. The county clerk, two thousand seven hundred dollars per annum. In counties of this class there shall be and there is hereby allowed to the county clerk for his own use and to be paid out of the county treasury monthly in the same manner as salaries of other county officers are paid, the sum of five cents for the name of each defendant entered in the index labeled "general index-defendants" as provided in subdivision four of section four thousand two hundred four of the Political Code and in subdivision four of section one hundred seven of an act entitled "An act to establish a uniform system of county and township governments" approved April first, one thousand eight hundred ninety-seven, as amended March twenty-third, one thousand nine hundred one; and the further sum of five cents for each document recorded by said county clerk under the provisions of section one thousand three hundred eighty-seven of the Code of Civil Procedure; and the further sum of five cents for each name contained in the index of registration books, to be prepared by said clerk, under the provisions of section one thousand one hundred fifteen of the Political Code of the State of California.

2. The sheriff, four thousand dollars per annum. The sheriff shall also receive for his own use and benefit all fees, commissions and mileage for service of any papers issued by any court outside of his county.

3. The recorder, two thousand one hundred dollars per annum.

4. The auditor, two thousand two hundred dollars per annum.

5. The treasurer, one thousand eight hundred dollars per annum.

6. The tax collector and license collector, two thousand two hundred dollars per annum.

7. The assessor, three thousand dollars per annum.

8. The district attorney, two thousand seven hundred dollars per annum, and his traveling, office and other expenses in criminal matters and cases, and in civil actions, proceedings and all other matters in which the county is interested incurred by him in the performance of his duties; and all the expenses incurred by him in the detection of crime and prosecution of criminal cases and in civil actions and proceedings and all other matters in which the county is interested.

9. The coroner, such fees as are now or may be hereafter allowed by law.

10. The public administrator, such fees as are now or may be hereafter allowed by law.

11. The superintendent of schools, two thousand one hundred dollars per annum and actual traveling expenses when visiting the schools of his county.

12. The surveyor, such fees as are now or may be hereafter allowed by law.

13. The justices of the peace, such fees as are now or may be hereafter allowed by law.

14. Each member of the board of supervisors, six hundred dollars per annum and ten cents per mile mileage in traveling to and from his residence to the county seat; and for his services as road commissioner he shall receive twenty cents per mile for all distances actually traveled by him in the performance of his duties within the county; provided he shall not in any one year receive more than six hundred dollars as such road commissioner.

15. Constables, such fees as are now or may be hereafter allowed by law, and in addition thereto they shall receive three dollars per day for attending court when required to do so during the actual trial of the issues of fact of a case, or during the examination of a criminal charge before a magistrate while the evidence is being taken and not otherwise; provided, that no more than three dollars shall be charged or received for any one day, and provided further that when the constable is required to attend upon the trial of more than one civil case on the same day his fees for attendance shall be equally apportioned to the several cases. Constables may also, by first obtaining an order of the district attorney of this county, or of a superior judge of this state, employ a temporary guard for the safekeeping or protection of prisoners when necessary, and shall be entitled to collect the actual, reasonable cost thereof as a county charge. [Amendment approved March 21, 1905. Stats. 1905, p. 670. In effect in sixty days.]

§ 172. In counties of the fifteenth class the county and township officers shall receive as compensation for the services required of them by law or by virtue of their offices, the following salaries, to wit:

1. The county clerk, thirty-two hundred and fifty dollars per annum.
2. The sheriff, four thousand dollars per annum; and such mileage as is now allowed by law and also all fees for service of papers in actions arising outside of his county.
3. The recorder, fifteen hundred dollars per annum, and four and one-half cents per folio for every instrument of any character transcribed by him or his deputies, which said amount shall be paid out of the county treasury, and which payment shall be in full for all services, including indexing.
4. The auditor, two thousand dollars per annum.
5. The treasurer, fifteen hundred dollars per annum.
6. The tax collector, two thousand dollars per annum.
7. The superior judge, three thousand five hundred dollars per annum.
8. The assessor, thirty-five hundred dollars per annum; provided, that in counties of this class there shall be seven field deputy assessors, who shall be appointed by the assessor of said county, and who shall hold office from twelve o'clock meridian from the first Monday in March of each year up to twelve o'clock meridian of the first Monday of July of each year; the salaries of each of said seven deputy assessors herein provided for is fixed at the sum of one hundred dollars per month, to include horse hire and traveling expenses for each month during which they hold office as herein provided, which said salaries shall be paid by said county at the same time and in the same manner and out of the same fund as the salary of the assessor; provided, that all commissions shall be paid into the county treasury.
9. The district attorney, twenty-five hundred dollars per annum.
10. The coroner, such fees as are now or may be hereafter allowed by law.
11. The public administrator, such fees as are now or may be hereafter allowed by law.
12. The superintendent of schools, twenty-two hundred and fifty dollars per annum, and actual traveling expenses when visiting the schools of the county, and keep his office open on all business days.
13. The surveyor, eight dollars per day while actually employed by the county.
14. Justices of the peace shall receive the following monthly salaries, to be paid each month and in the same manner and out of the same fund as county officers are paid, which shall be in full for all services rendered by them in criminal cases: In townships having a population of more than eight thousand, seventy-five dollars per month; in townships having a population of less than eight thousand and more than five thousand, fifty dollars per month; in townships having a population of less than five thousand and more than two thousand, twenty-five dollars per month; in townships having a population of less than two thousand, ten dollars per month. In addition to the compensation received in criminal cases, each justice of the peace shall receive and retain for his own use such fees as are now

or may hereafter be allowed by law for all services performed by him in civil actions.

15. Constables shall receive the following monthly salaries to be paid each month and in the same manner and out of the same fund as county officers are paid, which shall be in full for all services rendered by them in criminal cases: In townships having a population of more than eight thousand, seventy-five dollars per month; in townships having a population of less than eight thousand and more than five thousand, fifty dollars per month; in townships having a population of less than five thousand and more than two thousand, twenty-five dollars per month; in townships having a population of less than two thousand, ten dollars per month; provided, that each constable shall receive his actual and necessary expenses incurred in conveying prisoners to the county jail. In addition to the compensation received in criminal cases, each constable shall receive and retain for his own use such fees as are now or may be hereafter allowed by law for all services performed by him in civil actions.

16. Supervisors, five hundred dollars each per annum, and mileage at the rate of ten cents per mile in going to and coming from the place of meeting of the board, not more than four board meetings per month; and as road commissioner, four dollars per day, not to exceed four hundred dollars per year in the aggregate.

17. For the purposes of subdivisions 14 and 15 of this section, the population of the several judicial townships shall be ascertained by the board of supervisors by multiplying by five the vote for presidential electors cast in each township at the next preceding election. [Amendment approved March 20, 1905. Stats. 1905, p. 430. In effect in sixty days.]

§ 173. In counties of the sixteenth class the county and township officers shall receive, as compensation for the services required of them by law or by virtue of their offices, the following salaries, to wit:

1. The county clerk, three thousand dollars per annum.
2. The sheriff, thirty-five hundred dollars per annum. The sheriff shall also receive, in all civil cases, for his own use and benefit, the fees, commissions and mileage, which are now or which may hereafter be allowed by law, and the fees or commissions for the service of all papers whatsoever issued by any court of the state outside of his county.

3. The recorder, twenty-nine hundred dollars per annum.
4. The auditor, twenty-four hundred dollars per annum.
5. The treasurer, eighteen hundred dollars per annum.
6. The tax collector, fifteen hundred dollars per annum.
7. The assessor, four thousand dollars per annum.
8. The district attorney, eighteen hundred dollars per annum; provided, that he shall have power to appoint one assistant district attorney at a salary of one thousand dollars per annum, payable in the same manner as that of other county officers.

9. The coroner, such fees as are now or may be hereafter allowed by law.
10. The public administrator, such fees as are now or may be hereafter allowed by law.

11. The superintendent of schools, eighteen hundred dollars per annum, and actual traveling expenses when visiting the schools of his county;

but he shall receive no extra compensation for his services on the board of education.

12. The surveyor shall receive one thousand three hundred dollars per annum for all work performed for the county and, in addition thereto, actual traveling and other necessary expenses incurred in connection with field work; provided that whenever the surveyor is directed by the assessor to plat, trace or otherwise prepare maps or plats, he be allowed only the actual cost of preparing the same.

13. The justices of the peace shall receive the following monthly salaries, to be paid each month as salaries of the county officers are paid, which shall be in full for all services rendered by them in criminal cases and all other criminal matters. In townships having a population of five thousand or more, sixty-five dollars per month; in townships having a population of twenty-five hundred and less than five thousand, fifty dollars per month; in townships having a population of fifteen hundred and less than twenty-five hundred, forty dollars per month; in townships having a population of one thousand and less than fifteen hundred, thirty dollars per month; in townships having a population of seven hundred and less than one thousand, twenty dollars per month; and in townships having a population of less than seven hundred, fifteen dollars per month. Each justice must pay into the county treasury, once a month, all fines collected by him. In addition to the monthly salary allowed herein, each justice may receive for his own use such fees as are now or may be hereafter allowed by law for all services performed by him in civil actions. There shall be two justices of the peace in each such township containing a population of five thousand or more and in each such township containing a population of less than five thousand, there shall be one justice of the peace.

14. Constables shall receive the following salaries, to be paid each month as salaries of the county officers are paid, which shall be in full for all services rendered by them in criminal cases and in all other criminal matters: In townships having a population of five thousand or more, fifty dollars per month; in townships having a population of twenty-five hundred and less than five thousand, forty dollars per month; in townships having a population of fifteen hundred and less than twenty-five hundred, thirty dollars per month; in townships having a population of one thousand and less than fifteen hundred, twenty-five dollars per month; in townships having a population of seven hundred and less than one thousand, twenty dollars per month; and in townships having a population of less than seven hundred, fifteen dollars per month; provided that, in addition to the salary herein allowed, each constable shall be paid out of the treasury of the county for traveling expenses outside of his own township, for the service of a warrant of arrest or any other process in a criminal case or other criminal matter (when such service is, in fact, made) both going and returning, ten cents per mile; for each mile traveled out of his county, both going to and returning from the place of arrest or other service of process, five cents per mile and for transporting prisoners to the county jail, ten cents a mile each way. In addition to the monthly salary allowed him herein, each constable may receive for his

own use in civil cases, the fees which are now or may hereafter be allowed, by law.

15. The supervisors, each the sum of five dollars per day for actual service, (but not to exceed six hundred dollars per annum) and twenty cents per mile for all distances actually traveled, not to exceed two hundred dollars per annum in the performance of their duties as road commissioners, together with mileage at the rate of twenty cents per mile, in going only, from place of residence to the county seat at each session of the board.

16. For the purposes of subdivisions thirteen and fourteen of this section the population of the several judicial townships shall be ascertained and determined by the board of supervisors by multiplying by five the vote cast for presidential electors in each township at the next preceding election therefor. [Amendment approved March 4, 1907. Stats. 1907, p. 93. In effect immediately.]

§ 174. In counties of the seventeenth class the county officers shall receive as compensation for the services required of them by law or by virtue of their offices, the following salaries, to wit:

1. The county clerk, twenty-five hundred dollars per annum; provided, that in counties of this class there shall be and there hereby is allowed to the county clerk the following deputies, who shall be appointed by the county clerk and shall be paid salaries as follows: One chief deputy, at a salary of one hundred dollars per month; one courtroom clerk, at a salary of one hundred dollars per month. The salaries of the chief deputy and courtroom clerk herein provided for shall be paid by said county in monthly installments, at the same time and in the same manner and out of the same fund as the salary of the county clerk is paid.

2. The sheriff, six thousand dollars per annum.

3. The recorder, twenty-eight hundred dollars per annum; provided, that in counties of this class there shall be and is hereby allowed to the recorder a deputy, who shall be appointed by the said recorder, and who shall be paid the following salary, to wit: ninety dollars per month, said salary to be paid by said county in monthly installments, at the same time and in the same manner and out of the same fund as the salary of the recorder is paid.

4. The auditor, twenty-two hundred dollars per annum; provided, that in counties of this class there shall be and is hereby allowed to the county auditor one deputy, who shall be appointed by the county auditor and paid a salary of ninety dollars per month, said salary to be paid by said county in monthly installments, at the same time and in the same manner and out of the same fund as the salary of the county auditor is paid.

5. The treasurer, one thousand five hundred dollars per annum.

6. The tax collector, two thousand dollars per annum.

7. The assessor, twenty-five hundred dollars per annum; provided, that in counties of this class there shall be and is hereby allowed to the assessor two deputies, for a period of four months during each fiscal year, who shall be appointed by said assessor, and be paid a salary of seventy-five dollars per month, said salary to be paid by said county in monthly installments,

at the same time and in the same manner and out of the same fund as the salary of the assessor is paid.

8. The district attorney, two thousand five hundred dollars per annum; provided, that in counties of this class there shall be and is hereby allowed to the district attorney a deputy, who shall be appointed by said district attorney, and who shall be paid the following salary, to wit: Fifty dollars per month, said salary to be paid by said county in monthly installments, at the same time and in the same manner and out of the same fund as the salary of the district attorney is paid.

9. The coroner, such fees as are now or may be hereafter allowed by law.

10. The public administrator, such fees as are now or may be hereafter allowed by law.

11. The superintendent of schools, two thousand dollars per annum, and actual traveling expenses when visiting the schools of his county.

12. The county surveyor shall receive twelve hundred dollars per annum and necessary costs of transportation to and from, and necessary expense in the field while engaged on public work.

13. Justices of the peace, such fees as are now or may be hereafter allowed by law; provided, that in townships having a population of over six thousand, as shown by the United States census of nineteen hundred, in lieu of fees in criminal cases, and in full compensation for all services rendered in criminal cases, justices of the peace shall receive a salary of ninety dollars per month, payable at the same time and in the same manner as the salary of other county officers.

14. Constables, such fees as are now or may be hereafter allowed by law; provided, that in townships having a population of over six thousand, as shown by the United States census of nineteen hundred, in lieu of fees in criminal cases and in full compensation of all services rendered in criminal cases, constables shall receive a salary of seventy-five dollars per month, payable at the same time and in the same manner as salaries of other county officers; provided further, that in addition to the monthly salary herein allowed, constables of townships of over six thousand inhabitants shall also be allowed all necessary expense actually incurred outside of their townships, in pursuing and conveying prisoners to court or to prison, and said expense shall be audited and allowed by board of supervisors and paid out of the county treasury.

15. Each supervisor, six hundred dollars per annum, and twenty cents per mile for traveling from his residence to the county seat; and as road commissioner, four dollars per day, not to exceed two hundred dollars per annum in the aggregate.

16. In counties of this class the official reporter of the superior court shall receive, as full compensation for taking notes in civil and criminal cases tried in said court, a monthly salary of one hundred and twenty-five dollars, payable out of the county treasury at the same time and in the same manner as the salaries of county officers; and for the transcription of said notes, when required, he shall receive the sum of ten cents per folio for the original and five cents per folio for a copy; said compensation for transcription in criminal cases to be audited and allowed by the board of supervisors as other claims against the county, and paid out

of the county treasury, and in civil cases to be paid by the party ordering the same, or, when ordered by the judge, by either party, or jointly by both parties, as the court may direct. [Amendment approved March 20, 1905. Stats. 1905, p. 313. In effect in sixty days.]

§ 175. In counties of the eighteenth class, the county officers shall receive as compensation for the services required of them by law or by virtue of their office the following salaries, to wit:

1. The county clerk, four thousand dollars per annum.
2. The sheriff, six thousand five hundred dollars per annum, and mileage for the service of any and all processes required by law to be served by him at the rate of ten cents per mile for every mile necessarily traveled in the performance of such duty.
3. The recorder, two thousand dollars per annum, and six cents per folio for every instrument of any character transcribed by him or his deputies, which said amount shall be paid by the county treasurer out of the county treasury.
4. The auditor, three thousand dollars per annum.
5. The treasurer, two thousand dollars per annum.
6. The tax collector, three thousand six hundred dollars per annum; provided, that as such tax collector or as ex officio license collector he shall not have or receive any compensation for or percentage upon the collection of any license.
7. The assessor, five thousand dollars per annum.
8. The district attorney, four thousand dollars per annum.
9. The coroner, such fees as are now, or may be hereafter allowed by law.
10. The public administrator, such fees as are now, or may be hereafter allowed by law.
11. The superintendent of schools, one thousand eight hundred dollars per annum, and actual traveling expenses when visiting the schools of his county, and one deputy at a salary of one thousand two hundred dollars per annum.
12. The surveyor, such fees as are now, or may hereafter be allowed by law.
13. Justices of the peace shall receive the following monthly salaries to be paid each month as salaries of county officers are paid, which shall be in full compensation for all services rendered as hereinafter provided:
In townships having a population of three thousand or more, eighty-five dollars per month, which said salary shall be in full compensation for all services rendered by said justices of the peace in both civil and criminal cases, and all such fees as are allowed by law in civil cases shall be paid by said justices of the peace into the county treasury, as the fees of county officers are paid in.
In townships having a population of not less than two thousand and under three thousand, thirty dollars per month, which shall be in full compensation for all services rendered in criminal cases. In addition to the above salary each justice of the peace shall collect and retain for his own use and benefit in civil cases, such fees as are now or may be hereafter allowed by law.

In townships having a population of not less than one thousand and under two thousand, twenty dollars per month, which shall be in full compensation for all services rendered in criminal cases. In addition to the above salary each justice of the peace shall collect and retain for his own use and benefit in civil cases, such fees as are now or may be hereafter allowed by law.

In townships having a population of less than one thousand, fifteen dollars per month, which shall be in full compensation for all services rendered in criminal cases. In addition to the above salary each justice of the peace shall collect and retain for his own use and benefit in civil cases, such fees as are now or may be hereafter allowed by law.

14. Constables shall receive the following monthly salaries, to be paid each month as salaries of county officers are paid, which shall be in full compensation for all services rendered by them in criminal cases:

In townships having a population of more than three thousand, fifty dollars per month. In addition to the monthly salary allowed herein, each constable may collect and retain for his own use such fees as are now or may be hereafter allowed by law for all services performed by him in civil actions.

In townships having a population of not less than two thousand and under three thousand, forty dollars per month. In addition to the monthly salary allowed herein, each constable may collect and retain for his own use such fees as are now or may be hereafter allowed by law for all services performed in civil cases.

In townships having a population of not less than one thousand and under two thousand, twenty-five dollars per month. In addition to the monthly salary allowed herein, each constable may collect and retain for his own use such fees as are now or may be hereafter allowed by law for all services performed by him in civil cases.

In townships having a population of less than one thousand, ten dollars per month. In addition to the monthly salary allowed herein, each constable may collect and retain for his own use such fees as are now or may be hereafter allowed by law for all services performed in civil cases.

In addition to the monthly salary allowed herein, each constable shall also be allowed ten cents per mile for each mile necessarily traveled in the execution of all criminal process, and all expenses necessarily and actually incurred by him in transporting prisoners to court and to prison.

15. It shall be the duty of each and every constable and justice of the peace to file, on or before the first Monday of each and every month, a full and complete statement, showing all business both civil and criminal done during the preceding month with the board of supervisors, and shall file same on or before said date above mentioned with the clerk of said board. The statement of the constables shall contain a full and correct account of all process served in both civil and criminal actions, also in criminal cases places where defendants were arrested, together with the mileage. And justices of the peace shall file a full and correct statement of all civil and criminal actions and fees received therefrom. Said statements to be sworn to either before the county clerk or some officer allowed by law to administer oaths.

16. The board of supervisors shall determine the population of each township for the purpose of fixing the salary of the township officers aforesaid.

17. The provisions of section one hundred and seventy-five shall be in force from and after the passage of this act.

18. Each supervisor, \$1,000 per annum for personal services performed by him as supervisor, member of the board of equalization and road commissioner. Each supervisor shall also receive his actual and necessary traveling expenses incurred in performing any of the duties of his office, to be allowed by the board of supervisors and paid out of the county general fund; provided, that the amount so allowed him for such expenses shall not exceed \$40 for any one month.

19. No fees shall be allowed the sheriff or tax collector for collecting licenses in counties of this class. [Amendment approved March 20, 1905. Stats. 1905, p. 482. In effect immediately.]

§ 176. In counties of the nineteenth class the county officers shall receive, as compensation for the services required of them by law or by virtue of their office, the following salaries, to wit:

1. The county clerk, thirty-two hundred and fifty dollars per annum; provided that in counties of this class there shall be one deputy county clerk, who shall be appointed by the county clerk, and paid a salary of seventy-five dollars per month, said salary to be paid by the said county in monthly installments, at the same time and in the same manner and out of the same fund as the salary of the county clerk is paid.

1½. A registration clerk to be appointed by the county clerk and to hold office during the pleasure of the county clerk, at a salary of seventy-five dollars per month, payable out of the same fund and in the same manner as the salary of other county officers are paid.

2. The sheriff, five thousand dollars per annum, and such mileage as is now allowed by law; all expenses incurred in criminal cases, and also all fees for services of papers in actions arising outside of his county and the sum of thirty-seven and one half cents per day, for feeding each prisoner committed to his custody; and one deputy sheriff to act as jailer, shall be appointed by the sheriff, and be paid a salary of fifty dollars per month, said salary to be paid by the said county in monthly installments, at the same time and in the same manner and out of the same fund as the salary of the sheriff is paid.

3. The recorder, thirty-two hundred and fifty dollars per annum, and ten cents per name for inserting each name (as grantor or grantee), in the general index; and ten cents for each and every mortgage, trust-deed and tax sale abstracted in preparing abstract of mortgage and tax sales for the assessor; the cost thereof shall be a charge against the county and payable out of the general fund.

4. The auditor, two thousand four hundred dollars per annum. The county auditor shall charge and collect for the clerical service of making estimates of tax sales provided for in section 3817 of the Political Code, the sum of twenty-five cents for each tax sale. If the property is delinquent for two years or less, the sum of fifty cents for each sale if the property is delinquent for more than two years.

If said estimates are returned to the auditor and redemption made within ten days from date of issue and prior to the charge of penalty, as provided for in section number 3817 of the Political Code, the amount charged for making said estimates shall be refunded to the redemptioner. If the redemption is not made as herein provided then the sum charged for making the estimate shall be retained by said auditor for his services of making said estimates.

5. The treasurer, eighteen hundred dollars per annum; provided, that in counties of this class there shall be one deputy treasurer, who shall be appointed by the treasurer, and paid a salary of sixty-five dollars per month; said salary to be paid by the said county in monthly installments, at the same time and in the same manner and out of the same fund as the salary of the treasurer is paid; provided that a bond of the treasurer shall be executed with a reliable bond and security company, and that the cost of said bond, when duly approved, shall be a charge against the county and payable out of the general fund.

6. The tax collector, eighteen hundred dollars per annum, and as license tax collector, ten per cent, of all licenses collected; provided, that in counties of this class there shall be one deputy tax collector, who shall be appointed by the tax collector, and paid a salary of sixty-five dollars per month, said salary to be paid by the said county in monthly installments, at the same time and in the same manner and out of the same fund as the salary of the tax collector is paid.

7. The district attorney, twenty-five hundred dollars per annum; provided, that in counties of this class there shall be one deputy district attorney, who shall be appointed by the district attorney, and paid a salary of one hundred dollars per month, said salary to be paid by the said county in monthly installments, at the same time and in the same manner and out of the same fund as the salary of the district attorney is paid.

8. The superintendent of schools, eighteen hundred dollars per annum, and actual traveling expenses when visiting the schools of his county; provided, that in counties of this class there shall be one deputy superintendent of schools, who shall be appointed by the superintendent of schools, and paid a salary of seventy-five dollars per month, said salary to be paid by the said county in monthly installments, at the same time and in the same manner and out of the same fund as the salary of the superintendent of schools is paid.

9. The assessor, thirty-two hundred and fifty dollars per annum; provided, that in counties of this class there shall be one deputy assessor, who shall be appointed by the assessor, to hold office during the months of March, April, May, and June, in each year, and be paid a salary of seventy-five dollars per month, during said four months, said salary to be paid by the said county in monthly installments at the same time and in the same manner and out of the same fund as the salary of the assessor is paid.

10. The coroner, such fees as are now or may be hereafter allowed by law.

11. The public administrator, such fees as are now or may be hereafter allowed by law.

12. The surveyor, such fees as are now or may be hereafter allowed by law.

13. Justices of the peace shall receive the following monthly salaries, to be paid each month as the salaries of county officers are paid, which shall be in full for all services rendered by them in criminal cases: In townships having a population of three thousand or more, one hundred dollars a month; in townships having a population of twenty-five hundred and less than three thousand, fifty dollars a month; in townships having a population of two thousand and less than twenty-five hundred, forty-five dollars a month; in townships having a population of twelve hundred and less than two thousand, forty dollars a month; in townships having a population of one thousand and less than twelve hundred, twenty dollars a month; in townships having a population of four hundred and fifty, and less than one thousand, fifteen dollars a month; in townships having a population of less than four hundred and fifty, five dollars a month. Each justice must pay into the county, once a month, all fines collected by him in criminal cases, and the auditor must withhold warrants for salary until a sworn statement has been filed with him of all criminal cases tried and fines collected and paid into the county treasury. In addition to the monthly salary allowed herein, each justice may receive for his own use in civil cases the fees allowed by law. For all services appertaining to the coroner's office which the coroner is unable to attend to, the justice of the peace shall receive the same fees as are allowed the coroner in similar cases.

14. Constables shall receive the following salaries to be paid each month as the salaries of county officers are paid, which shall be in full for all services rendered by them in criminal cases: In townships having a population of three thousand or more, one hundred dollars a month; in townships having a population of twenty-five hundred and less than three thousand, eighty dollars a month; in townships having a population of two thousand and less than twenty-five hundred, seventy-seven and one-half dollars a month; in townships having a population of twelve hundred and less than two thousand, seventy-five dollars a month; in townships having a population of one thousand and less than twelve hundred, thirty-five dollars a month; in townships having a population of four hundred and fifty and less than one thousand, twenty-five dollars a month; in townships having a population of less than four hundred and fifty, five dollars a month; provided further, that in addition to the salary herein allowed, each constable shall be paid out of the treasury of the county for traveling expenses outside of his township, for service of a warrant of arrest or any other paper in a criminal case, such fees as are now or may be hereafter allowed by law. For transporting prisoners to the county jail, the actual expense of such transportation. In addition to the monthly salaries allowed him herein, each constable may receive for his own use in civil cases the fees allowed by law.

15. The population of the several judicial townships, for the purpose of fixing the compensation of township officers, shall be ascertained and declared by the board of supervisors on the first Monday after the first day of January, nineteen hundred and three, and on the first Monday after the first day of January every succeeding two years thereafter.

16. Each member of the board of supervisors, nine hundred dollars per annum: And as road commissioner, three hundred dollars per annum.

17. Grand jurors or trial jurors in criminal cases in the superior court shall receive, as compensation for each day's attendance, per day, three dollars; and for each mile actually traveled, in attending court as a grand juror or juror in a criminal case, in the superior court in going only, per mile, fifteen cents. The county clerk shall certify to the auditor the number of days attendance and the number of miles traveled by each juror, and the auditor shall draw his warrant for the amount to which each juror is entitled, and the treasurer shall pay the same. [Amendment approved March 20, 1905. Stats. 1905, p. 352. In effect in sixty days.]

§ 177. In counties of the twentieth class, county officers shall receive as compensation for the services required of them by law or by virtue of their offices, the following salaries, to wit:

1. The county clerk, three thousand two hundred dollars per annum; provided, that in years when a great register is ordered the county clerk shall receive in addition to his regular salary the sum of five hundred dollars for such service.

2. The sheriff, forty-three hundred dollars per annum, and all commissions, fees and mileage for the service of papers or process coming from courts other than those of his own county.

3. The recorder, twelve hundred dollars per annum, and six cents per folio for every instrument of any character transcribed by him or his deputies, and five cents for each name indexed, which said amount shall be paid out of the county treasury, and which payment shall be in full for all services, including the recording of mining claims.

4. The auditor, two thousand two hundred dollars per annum. The county auditor shall charge and collect for the clerical labor of making estimates of tax sales, provided for in section thirty-eight hundred and seventeen of the Political Code, the sum of twenty-five cents for each tax sale, if the property is delinquent for two years or less; and the sum of fifty cents for each sale if said property is delinquent for more than two years. If said estimates are returned to the auditor and redemption made within twenty days from the date of issue and prior to the charge of penalties as provided in section thirty-eight hundred and seventeen of the Political Code, the amounts charged for making said estimates shall be refunded to the redemptioner; if redemption is not made as herein provided, then the sums charged for making the estimates shall be retained by the auditor for his services of making said estimates.

5. The treasurer, eighteen hundred dollars per annum; provided, that in counties of this class there shall be and there hereby is allowed to the treasurer one deputy, to be appointed by him, who shall receive from the county a salary of forty dollars (\$40) per month, to be paid by said county in monthly installments at the same time and in the same manner and out of the same fund as the salary of the treasurer.

6. The tax collector, twenty-five hundred dollars per annum.

7. The assessor, forty-eight hundred dollars per annum, which shall be in full for all work in his office and for his field deputies.

8. The district attorney, eighteen hundred dollars per annum.

9. The coroner, such fees as are now or may hereafter be allowed by law.

10. The public administrator, such fees as are now, or may be hereafter allowed by law.

11. The superintendent of schools, two thousand dollars per annum. His office shall be kept open on all business days from 9 A. M. to 5 P. M. He shall be allowed his actual traveling expenses when visiting the schools of his county, provided that in counties of this class there shall be and there hereby is allowed to the county school superintendent of schools, one deputy to be appointed by him who shall receive from the county a salary of eighty-five dollars (\$85) per month, to be paid by said county in monthly installments at the same time and in the same manner and out of the same fund as the salary of the superintendent of schools.

12. The surveyor, fifteen hundred dollars per annum, and in addition thereto all necessary expenses and transportation on work performed in the field; provided, that in counties of this class, when the board of supervisors order a new set of assessors maps made, there shall be and there hereby is allowed to the surveyor, for such purpose, three draughtsmen, who shall be appointed by the surveyor of said county and shall be paid salaries as follows: One draughtsman at a salary of eighty dollars (\$80) per month; two draughtsmen at a salary of seventy-five dollars (\$75) per month each. The salaries of the draughtsmen, herein provided for, shall be paid in monthly installments at the same time and in the same manner and out of the same fund as the salary of the surveyor.

13. Justices of the peace shall receive the following monthly salaries, to be paid each month, as salaries of the county officers are paid, which shall be in full for all services rendered by them in criminal cases: In townships having a population of eight thousand or more, seventy-five dollars per month; in townships having a population of six thousand and less than eight thousand, fifty dollars per month; in townships having a population of four thousand and less than six thousand, twenty-five dollars per month; in townships having a population of two thousand and less than four thousand, fifteen dollars per month; in townships having a population of one thousand and less than two thousand, ten dollars per month; in townships having a population of less than one thousand, five dollars per month; provided, that in all townships having an area equal to or exceeding one thousand square miles, such salary shall not be less than fifty dollars per month. Each justice must pay into the county treasury, once a month, all fines collected by him in criminal cases, and the auditor shall withhold warrant for salary until a sworn statement has been filed with him of all criminal cases tried and fines collected and paid into the county treasury. In addition to the monthly salary allowed herein, each justice may receive for his own

use in civil cases the fees allowed by law. For all services appertaining to the coroner's office which the coroner is unable to attend to, the justice of the peace shall receive the same fees as are allowed the coroner in similar cases.

14. Constables shall receive the following monthly salaries, to be paid each month as the salaries of county officers are paid, which shall be in full for all services rendered by them in criminal cases: In townships having a population of eight thousand or more, seventy-five dollars a month; in townships having a population of six thousand and less than eight thousand, fifty dollars a month; in townships having a population of four thousand and less than six thousand, twenty-five dollars a month; in townships having a population of two thousand and less than four thousand, fifteen dollars a month; in townships having a population of one thousand, and less than two thousand, ten dollars a month; in townships having a population of less than one thousand, five dollars a month; provided that in all townships having an area equal to or exceeding one thousand square miles, such salary shall not be less than fifty dollars per month; provided further, that in addition to the salary herein allowed, each constable shall be paid out of the treasury of the county for traveling expenses outside of his own township, for service of a warrant of arrest or any other paper in a criminal case, both going and returning, ten cents per mile; for each mile traveled out of his county, both going and returning from the place of arrest or other service, five cents per mile. For transporting prisoners to the county jail, the actual cost of such transportation. In addition to the monthly salary allowed him herein, each constable shall receive for his own use in civil cases the fees allowed by law.

15. The population of the several townships shall be determined by the last United States census, and in case townships are formed after the taking of the census, then the population shall be determined by multiplying the vote for presidential electors cast in such township at the last preceding general election by five.

16. Each supervisor, five hundred dollars per annum, and fifteen cents per mile one way for traveling from his residence to the county seat; provided, that not more than four mileages shall be allowed in any one month. When serving as road commissioner, such fees as are now or may be hereafter allowed by law.

17. In counties of this class the official reporter of the superior court shall receive as full compensation for taking notes in civil and criminal cases tried in said court, and for taking notes of the proceedings and testimony at all coroner's inquests in the county, when requested by the coroner, and for taking notes of the testimony and proceedings in all examinations before committing magistrates, when requested by the district attorney, a monthly salary of one hundred dollars (\$100) payable out of the county treasury, at the same time and in the same manner as the salaries of county officers; and for transcription of said notes when required he shall receive the sum of five cents per folio for the original and five cents per folio for copy, said compensation for tran-

scription in criminal cases, coroner's inquests and preliminary examinations to be audited and allowed by the board of supervisors as other claims against the county and paid out of the county treasury, and in civil cases to be paid by the party ordering the same, or when ordered by the judge by either party, or jointly by both parties, as the court may direct. When necessary for such reporter to travel away from the county seat in the performance of his duty, he shall receive his actual and necessary traveling expenses, to be allowed and paid by the board of supervisors as are the other county charges. [Amendment approved March 20, 1905. Stats. 1905, p. 301. In effect in sixty days.]

§ 177½. In counties of the twentieth class the treasurer may appoint one deputy, who shall receive from the county a salary of forty dollars (\$40) per month, to be paid by such county in monthly installments at the same time and in the same manner and out of the same fund as the salary of the treasurer. [New section added March 16, 1903. Stats. 1903, p. 156. In effect immediately.]

§ 178. In counties of the twenty-first class county officers shall receive, as compensation for the services required of them by law or by virtue of their officers, the following salaries, to wit:

1. The county clerk, three thousand dollars per annum, and when a great register of votes is ordered he shall receive six hundred and fifty dollars additional, which shall be in full for all services rendered in registering votes and making the great register.

2. The sheriff, six thousand dollars per annum. The sheriff shall also receive for his own use, for serving all papers issued from justices' courts, the same fees as are now or may be hereafter allowed by law to constables for like service.

3. The recorder, three thousand two hundred dollars per annum.

4. The auditor, eight hundred dollars per annum.

5. The treasurer, two thousand five hundred dollars per annum.

6. The tax collector, six hundred and fifty dollars per annum.

7. The assessor, five thousand five hundred dollars per annum.

8. The district attorney, two thousand five hundred dollars per annum; and the district attorney may appoint one deputy, which office is hereby created, at a salary of six hundred dollars per annum. The deputy district attorney to hold office at the pleasure of the district attorney. The salary of such deputy to be paid monthly and in the same manner as salaries of county officers are now paid.

9. The coroner, such fees as are now or may be hereafter allowed by law.

10. The public administrator, four hundred dollars per annum.

11. The superintendent of schools, two thousand dollars per annum; provided, if he shall engage in any other occupation during his term of office his salary shall only be six hundred dollars per annum.

12. The surveyor, such fees as are now or may be hereafter allowed by law.

13. Each member of the board of supervisors shall receive for his services the sum of nine hundred dollars per annum, and twenty cents

per mile in traveling to and from his residence to the county seat; provided, that no more than one mileage at any one term of the board shall be allowed, and that one-fourth of the annual salary shall be paid at the close of each quarterly session of the board.

14. Justices of the peace, such fees as are now or may be hereafter allowed by law; provided, that justices of the peace of townships containing four thousand five hundred inhabitants or more shall be allowed a salary of six hundred dollars per annum, payable monthly and in the same manner as salaries of county officers are paid, and shall be in full for all services rendered by him in criminal cases; provided, further, that justices of the peace shall, before receiving their monthly salary, file with the auditor a statement of all fines received, together with the treasurer's receipt for same. All fines collected by justices of the peace shall be turned over to the county treasurer of said county within ten days after receipt of same; provided, that all fines collected for city offenses shall be turned over to the city treasurer of the city where the offense shall have been committed. In addition to the monthly salaries herein allowed, each justice of the peace may receive and retain for his own use such fees as are now or may be hereafter allowed by law, for all services rendered by him in civil actions.

15. Constables, such fees as are now or may be hereafter allowed by law; provided, that constables of townships containing two thousand inhabitants or more shall be allowed a salary of four hundred and eighty dollars per annum, payable monthly and in the same manner as county officers are paid, and shall be in full for all services rendered by them in criminal cases; provided, further, that they shall be allowed all necessary expenses actually incurred in arresting and conveying prisoners to the county jail which said expense shall be audited and allowed by the board of supervisors and paid out of the county treasury. In addition to the monthly salary herein allowed, each constable may receive and retain for his own use such fees as are now or may hereafter be allowed by law, for all services rendered by him in civil actions. For the purpose of regulating salaries of justices and constables, townships in this class of counties are hereby classified according to their population as shown by the federal census of one thousand nine hundred.

16. In counties of this class the official reporter of the superior court shall receive such fees as are now or may be hereafter allowed by law, and when necessary for such reporter to travel away from the county seat in the performance of his duty, he shall receive his actual and necessary traveling expenses, to be allowed and paid by the board of supervisors as are other county charges. [Amendment approved March 20, 1905. Stats. 1905, p. 361. In effect immediately.]

§ 179. In counties of the twenty-second class the county officers shall receive, as compensation for the services required of them by law or by virtue of their offices, the following salaries, to wit:

1. The county clerk, three thousand dollars per annum, and when a new great register of voters is ordered, he shall receive three hundred

dollars additional, which shall be in full for all services required in registering voters and making the great register.

2. The sheriff, fifty-one hundred dollars per annum, which includes the fifteen hundred dollars heretofore allowed the under-sheriff. He shall also have for his own use all fees for service of all papers served by him and issued without his county. The said fifty-one hundred dollars to be in full of all fees or percentages as license collector.

3. The recorder, thirty-two hundred dollars per annum, in full of all services, including filing and recording mining and other location notices.

4. The auditor, twelve hundred dollars per annum.

5. The treasurer, eighteen hundred dollars per annum.

6. The tax collector, one thousand dollars per annum.

7. The assessor, twelve hundred dollars per annum, and he is hereby allowed in addition thereto ten deputies, to be appointed by him, who shall each receive four dollars per day for not exceeding three months in any calendar year, while engaged in the performance of their duties; provided, that the amount paid for services of deputy assessors shall not exceed twenty-four hundred dollars in any one year.

8. The district attorney, twenty-one hundred dollars per annum, and he is hereby allowed in addition thereto one deputy appointed by him, who shall receive nine hundred dollars per annum.

9. The coroner, such fees as are now or may be hereafter allowed by law.

10. The public administrator, such fees as are now or may be hereafter allowed by law.

11. The superintendent of schools, eighteen hundred dollars per annum, and necessary expenses for traveling in visiting schools in the county, to be allowed by the supervisors of the county.

12. The surveyor, such fees as are now or may be hereafter allowed by law.

13. For the purpose of regulating the compensation of justices of the peace and constables, townships in this class of counties are hereby classified according to their population, as shown by the federal census of nineteen hundred, as follows:

Townships having a population of three thousand or more shall belong to and be known as townships of the first class; townships having a population of two thousand and less than three thousand, shall belong to and be known as townships of the second class; townships having a population of one thousand six hundred and less than two thousand shall belong to and be known as townships of the third class; and townships having a population of less than one thousand six hundred shall belong to and be known as townships of the fourth class.

Justices of the peace shall receive the following salaries, which shall be paid monthly, in the same manner as the salaries of county officers are paid, out of the general fund of the county, and which shall be in full of all services rendered by them in criminal cases, to wit:

In townships of the first class, eighty-five dollars per month; in townships of the second class, seventy-five dollars per month; in townships

of the third class, twenty dollars per month; and in townships of the fourth class ten dollars per month.

In addition to the monthly salaries herein allowed for services in criminal actions, cases and examinations, each justice of the peace may, for his own use, collect the following fees, and no other, in civil actions:

Each justice of the peace shall be allowed, in civil actions before him, for all services to be performed by him before trial, three dollars; and for the trial, and all proceedings subsequent thereto, including all affidavits, swearing of witnesses and jury, and the entry of judgment and issue of execution thereon, four dollars; and fifteen cents for each hour actually engaged in such trial after the expiration of eight hours; and in all cases where judgment is rendered by default or confession, for all services, including execution and satisfaction of judgment, three dollars.

For certificate and transmitting transcript and papers on appeal, one dollar.

For copies of papers on docket, per folio, ten cents.

For issuing a search-warrant, to be paid by the party demanding the same, fifty cents.

For celebrating a marriage and returning a certificate thereof to the county recorder, three dollars.

For taking an acknowledgment of any instrument, for the first name, fifty cents; for each additional name, twenty-five cents.

For taking depositions, per folio, fifteen cents.

For all services connected with the posting of estrays, one dollar.

In cases before the justice of the peace, when the venue shall be changed, the justice before whom the action shall be brought for all services rendered, including the making up and transmission of the transcript and papers, shall receive three dollars; and the justice of the peace before whom the trial shall take place shall receive the same fees as if the action had been commenced before him.

For performing the duties of coroner, when the coroner fails to act, the same fees and mileage as are allowed the coroner in like cases.

For issuing each process, writ, order or paper required by law to be issued, not otherwise provided for, twenty-five cents.

For each certificate or affidavit not otherwise herein provided for, twenty-five cents.

For administering oath or affirmation not otherwise herein provided for, twenty-five cents.

For taking and approving bond or undertaking, including the justification of sureties, fifty cents.

14. Constables shall receive the following salaries, which shall be paid monthly, in the same manner as the salaries of county officers are paid, out of the general fund of the county, and which shall be in full of all services rendered by them in criminal cases, to wit:

In townships of the first class, one hundred dollars per month; in townships of the second class, seventy-five dollars per month; in town-

ships of the third class, twenty dollars per month, and in townships of the fourth class, ten dollars per month. In addition to the monthly salaries herein allowed for services in criminal actions, cases and proceedings, each constable shall also be allowed all necessary expenses actually and properly incurred, in arresting and conveying prisoners to court or to prison, and also all necessary expenses actually incurred in the transportation of prisoners from prison to court, and the return of said prisoners to prison; and shall be allowed, also, for each mile actually traveled, both in going and coming, in the service of subpoenas, in criminal cases, per mile, ten cents; which said expenses and mileage shall be audited and allowed by the board of supervisors as other claims against the county are audited and allowed, and shall be paid out of the county treasury.

In addition to the monthly salaries herein allowed for services in criminal actions and cases, each constable may, for his own use, collect the following fees, and no others, in civil actions:

For serving summons and complaint, for each defendant served, fifty cents.

For each copy of summons for service, when actually made by him, twenty-five cents.

For levying writ of attachment or execution, or executing order of arrest, or for the delivery of personal property, one dollar.

For serving writ of attachment or execution on any ship, boat, or vessel, three dollars.

For keeping personal property, such sum as the court may order; but no more than one dollar and fifty cents per day shall be allowed for a keeper when necessarily employed.

For taking bond or undertaking, fifty cents.

For copies of writ and other papers, except summons, complaint, and subpoenas, per folio, ten cents; provided, that when correct copies are furnished to him for use, no charge shall be made for such copies.

For serving any writ, notice, or order, except summons, complaint, and subpoenas, for each person served, fifty cents.

For writing and posting each notice of sale of property, fifty cents.

For furnishing notice for publication, twenty-five cents.

For serving subpoenas, each witness, including copy, twenty-five cents.

For collecting money on execution, one and one-half per cent.

For executing and delivering certificate of sale, fifty cents.

For executing and delivering constable's deed, one dollar and fifty cents.

For each mile actually traveled within his township in the service of any writ, order, or paper, in civil actions, in going only, per mile, twenty-five cents.

For traveling outside of his township to serve such writ, order, or paper, in civil actions, in going only, twenty-five cents per mile; provided, that a constable shall not be required to travel outside of his township to serve any civil process, order, or paper. No constructive mileage shall be charged, allowed, or paid, in criminal or civil cases.

For each day's attendance in court, in civil cases, three dollars per day.

For executing a search-warrant, two dollars; and for each mile necessarily traveled within his county in executing a search-warrant, both in going and returning from place of search, fifteen cents; said fee and mileage to be paid by the party demanding the search.

For summoning a jury, in civil cases, two dollars, including mileage.

For commissions for receiving and paying over money on execution without levy, or when the goods or land levied on shall not be sold, one per cent. The fees herein allowed for the levy of an execution, and for making or collecting the money on execution, shall be collected from the judgment debtor, by virtue of such execution, in the same manner as the sum herein directed to be paid.

County officers must, and township officers may, demand the payment of all fees in advance.

Justices of the peace shall, on or before the first Monday of each month, pay into the county treasury all moneys collected by them on fines imposed and collected, and all moneys belonging to the county coming from any source.

The board of supervisors shall, within sixty days after the passage of this act, establish by ordinance, according to the provisions of subdivisions thirteen and fourteen of section twenty-six, the population of the various townships of this class of counties.

15. Each member of the board of supervisors, five hundred dollars per annum and ten cents per mile, one way, between residence and county seat, in attending upon all regular, special or adjourned meetings of the board of supervisors; provided, that the chairman of the board of supervisors may receive twenty-five cents per mile, one way, between residence and the county seat, when attending at the county seat for the single purpose of counting the money in the county treasury, as required by law.

16. In counties of this class the official reporter of the superior court shall receive, as full compensation for taking notes in civil and criminal cases tried in said court, and for preliminary examinations in justices' courts, a monthly salary of seventy-five dollars, payable out of the county treasury, at the same time and in the same manner as the salaries of county officers; and for transcription of said notes, when required, he shall receive the sum of ten cents per folio for the original, and five cents per folio for a copy; where the reporter is required to transcribe the whole, or any part of his notes from day to day as the trial progresses, he shall receive, in addition to said sums hereinbefore provided, the further sum of five cents per folio for the original, and two and one-half cents per folio for the copy. Said compensation for transcription in criminal cases to be audited and allowed by the board of supervisors as other claims against the county, and paid out of the county treasury; and in civil cases, to be paid by the party ordering the same, or, when ordered by the judge, by either party, or jointly by both parties as the court may direct; provided, that where the services of the official reporter are required, in each civil case, the sum of ten

dollars per diem, for each day of the trial thereof, shall be paid to the clerk of the court, in advance, one-half by each party, or in such other proportion as the court may direct; all per diem fees so collected shall be paid by the clerk into the treasury of the county. The portion of per diem fees in each case, which were paid by the prevailing party, shall be taxed and allowed as costs in the case; provided, also, that this act, so far as it relates to the official reporter of the superior court in counties of this class, shall take effect immediately. [Amendment approved March 23, 1901. Stats. 1901, p. 741. In effect 12 M. on first Monday after January 1, 1903.]

§ 180. In counties of the twenty-third class, the county officers shall receive, as compensation for the services required of them by law or by virtue of their offices, the following salaries, to wit:

1. The county clerk four thousand five hundred dollars per annum; provided, that in years when a great register is ordered, the county clerk shall receive in addition to his regular salary the sum of eight hundred dollars for such service.

2. The sheriff, six thousand dollars per annum.

3. The recorder, three thousand two hundred dollars per annum.

4. The auditor, one thousand five hundred dollars per annum.

5. The treasurer, two thousand dollars per annum.

6. The tax collector, one thousand dollars per annum.

7. The assessor, three thousand five hundred dollars per annum, and the fees and commissions now or hereafter allowed by law. The assessor shall also be allowed the following deputies, to be appointed by him, viz.: One deputy for each bona fide increase of two hundred real estate statements made for assessment purposes over and above three thousand of such statements, and not to exceed in all five deputies. Each of such deputies shall receive a monthly compensation of one hundred dollars, for the months of March, April, May and June of each year. The salary of said deputies to be paid in the same manner, and out of the same fund as the assessor, upon the presentation of a certificate that services have been performed, and signed by the assessor.

8. The district attorney, twenty-four hundred dollars per annum; assistant district attorney, nine hundred dollars per annum.

9. The coroner, such fees as are now or may be hereafter allowed by law.

10. The public administrator, such fees as are now or may be hereafter allowed by law.

11. The superintendent of schools, fifteen hundred dollars per annum.

12. The surveyor, such fees as are now or may be hereafter allowed by law.

13. Justices of the peace, such fees as are now or may be hereafter allowed by law.

14. Constables, such fees as are now or may be hereafter allowed by law.

15. Each member of the board of supervisors \$1200 per annum, and mileage when acting as road commissioner, 25 cents per mile one way;

provided, the amount of mileage shall not exceed the sum of \$300 in any one year. This subdivision of this section shall take effect and be in full force from and after the passage of this act.

16. Member[s] of the board of education, each the sum of five dollars per day for actual service, together with mileage at ten cents per mile. [Amendment approved March 20, 1905. Stats. 1905, p. 318. In effect in part immediately, and in part in sixty days.]

§ 181. In counties of the twenty-fourth class the county officers shall receive, as compensation for the services required of them by law or by virtue of their offices, the following salaries, to wit:

1. The county clerk, three thousand dollars per annum.
2. The sheriff, six thousand dollars per annum.
3. The recorder, two thousand dollars per annum.
4. The auditor, one thousand dollars per annum.
5. The treasurer, fifteen hundred dollars per annum.
6. The tax collector, one thousand dollars per annum.
7. The assessor, twenty-four hundred dollars per annum.
8. The district attorney, eighteen hundred dollars per annum.
9. The coroner, such fees as are now or may be hereafter allowed by law.

10. The public administrator, such fees as are now or may be hereafter allowed by law.

11. The superintendent of schools, fifteen hundred dollars per annum, and his reasonable traveling expenses incurred in visiting schools of the county, to be fixed and allowed by the board of supervisors, not to exceed the sum of five hundred dollars per annum; provided, he shall devote his entire time to the duties of said office.

12. The surveyor, such fees as are now or may be hereafter allowed by law; provided, he shall be given all work for the county in which the county employs a surveyor or civil engineer; and provided further, that it shall be the duty of the board of supervisors of counties of this class to so employ him.

13. Justices of the peace, such fees as are now or may be hereafter allowed by law.

14. Constables, such fees as are now or may be hereafter allowed by law.

15. Each member of the board of supervisors, five hundred dollars per annum, and mileage at the rate of twenty cents per mile from his home to and from the county seat.

16. In counties of this class the official reporter of the superior court shall receive, as full compensation for taking notes in civil and criminal cases tried in said court, and when requested by the district attorney, for preliminary examinations in justice's court, a monthly salary of one hundred dollars, payable out of the county treasury, at the same time and in the same manner as the salaries of county officers; and for transcription of said notes, when required, he shall receive the sum of ten cents per folio for the original and five cents per folio for a copy; said compensation for a transcription in criminal cases to be audited and

allowed by the board of supervisors as other claims against the county, and paid out of the county treasury, and in civil cases to be paid by the party ordering the same, or, when ordered by the judge, by either party, or jointly by both parties, as the court may direct. [Amendment approved March 23, 1901. Stats. 1901, p. 746. In effect 12 M. on first Monday after January 1, 1903.]

§ 182. In counties of the twenty-fifth class the officers shall receive, as compensation for the services required of them by law or by virtue of their office, the following salaries, to wit:

1. The county clerk, four thousand dollars per annum.
2. The sheriff, five thousand five hundred dollars per annum.
3. The recorder, two thousand dollars per annum, and six cents for each folio recorded. Provided, that the six cents per folio for recording shall go into effect immediately.
4. The auditor, twenty-four hundred dollars per annum.
5. The treasurer, twenty-seven hundred dollars per annum.
6. The tax collector, two thousand dollars per annum, and one deputy, at nine hundred dollars per annum.
7. The assessor, four thousand dollars per annum, and one deputy, at a salary of nine hundred dollars per annum.
8. The district attorney, twenty-five hundred dollars per annum.
9. The coroner, such fees as are now or may be hereafter allowed by law.
10. The public administrator, such fees as are now or may be hereafter allowed by law.
11. The superintendent of schools, one thousand five hundred dollars per annum, and actual traveling expenses when visiting the schools of his county, and one deputy, at nine hundred dollars per annum.
12. The surveyor shall receive one thousand five hundred dollars per annum for all work performed for the county, and in addition thereto, actual traveling and other necessary expenses incurred in connection with field work; provided, that whenever the surveyor is directed by the assessor to plat, trace, or otherwise prepare maps, plats, or block book for the use of the county assessor, he shall be allowed only the actual cost of preparing the same.
13. Justices of the peace, such fees as are now or may be hereafter allowed by law.
14. Constables, such fees as are now or may be hereafter allowed by law.
15. Each supervisor, five hundred dollars per annum, and ten cents per mile for traveling from his residence to the county seat; provided, that not more than one mileage for one session of the board shall be allowed. For serving as road commissioner, two hundred dollars per annum. [Amendment approved March 20, 1905. Stats. 1905, p. 383. In effect in part immediately, and in part in sixty days.]

§ 183. In counties of the twenty-sixth class, the officers shall receive, as compensation for the services required of them by law, or by virtue of their office, the following salaries, to wit:

1. The county clerk, five thousand dollars per annum, and twelve and a half cents for each elector registered.

2. The sheriff, seven thousand dollars per annum. He may retain for his own use the mileage and fees for the service of papers or process issued by any court of this state outside of his county.

3. The recorder, sixteen hundred dollars per annum, seven cents for each folio recorded, and five cents for each name indexed.

4. The auditor, two thousand dollars per annum.

5. The treasurer, two thousand dollars per annum.

6. The tax collector, three thousand dollars per annum.

7. The assessor, five thousand dollars per annum.

8. The district attorney, four thousand dollars per annum; provided, that he shall be disqualified from engaging in any cause or action to which the county or state is not a party.

9. The coroner, such fees as are now or may be hereafter allowed by law.

10. The public administrator, such fees as are now or may be hereafter allowed by law.

11. The superintendent of schools, eighteen hundred dollars per annum (which shall include his services as a member of the board of education), and his actual traveling expenses when visiting schools, not to exceed ten dollars per district.

12. The surveyor shall receive twelve hundred dollars per annum, and traveling and official expenses in the county.

13. Each supervisor, six dollars per day while in the service of the county, and thirty cents per mile for traveling from his residence to the county seat.

14. In counties of this class the township officers shall receive the following compensation, to wit:

In townships having a population of six thousand, or more, justices of the peace shall receive a monthly salary of one hundred and twenty-five dollars per month, and constables a monthly salary of one hundred and twenty-five dollars per month;

In townships having a population of three thousand, or more, and less than six thousand, justices of the peace shall receive a monthly salary of one hundred dollars per month, and constables a monthly salary of one hundred dollars per month;

In townships having a population of eighteen hundred and forty-four, or more, and less than three thousand, justices of the peace shall receive a monthly salary of fifty dollars per month, and constables a monthly salary of sixty dollars;

In townships having a population of seventeen hundred and seventy-five, or more, and less than eighteen hundred and forty-four, justices of the peace shall receive a monthly salary of ten dollars per month, and constables a monthly salary of twenty dollars per month;

In townships having a population of seventeen hundred and sixty, or more, and less than seventeen hundred and seventy-five, justices of the peace shall receive a monthly salary of fifty dollars per month, and constables a monthly salary of seventy-five dollars per month;

out of the county treasury in equal monthly installments in the same manner and at the same time other county officers are paid.

9. The coroner, such fees as are now, or may be hereafter allowed by law.

10. The public administrator, such fees as are now, or may be hereafter allowed by law.

11. Superintendent of schools, one thousand six hundred dollars per annum, and actual traveling expenses when visiting the schools of the county.

12. The surveyor, such fees as are now, or may be hereafter allowed by law.

13. For the purpose of regulating the compensation of justices of the peace and constables, townships in this class of counties are hereby classified according to their population, as shown by the federal census of nineteen hundred as follows: Townships having a population of five thousand or more shall belong to and be known as townships of the first class; townships having a population of three thousand and less than five thousand, shall belong to and be known as townships of the second class; townships having a population of one thousand and less than three thousand, shall belong to and be known as townships of the third class, and townships having a population of less than one thousand, shall belong to and be known as townships of the fourth class. Justices of the peace and constables shall receive the following salaries, which shall be paid monthly, in the same manner as salaries of county officers are paid, and which shall be in full of all services rendered by them in criminal cases, to wit: In townships of the first class, seventy-five dollars; in townships of the second class, fifty-five dollars; in townships of the third class, thirty dollars, and in townships of the fourth class twenty dollars. In addition of the monthly salaries herein allowed, each justice of the peace and constable may receive and retain for his own use such fees as are now or may be hereafter allowed by law, for all services rendered by him in civil actions. Constables shall also be allowed all necessary expenses actually incurred in arresting and conveying prisoners to court or to prison, which said expense shall be audited and allowed by the board of supervisors and paid out of the county treasury.

14. Each member of the board of supervisors shall receive one thousand dollars per annum, payable monthly, which shall be in full for all services as supervisors. [Amendment approved March 4, 1907. Stats. 1907, p. 107. In effect from and after passage.]

§ 185. In counties of the twenty-eighth class the county and township officers shall receive as compensation for the services required of them by law, or by virtue of their offices the following salaries and fees, to wit:

1. The county clerk, three thousand two hundred fifty dollars per annum; and in each year in which a new and complete registration of voters is required by law, he shall receive such additional amount as shall be necessary to pay deputy registration clerks for taking affidavits

of registration outside of the office at the rate of ten cents each, the claims for which shall be presented to and allowed by the board of supervisors as other claims are presented and allowed.

2. The sheriff, six thousand dollars per annum.

3. The recorder, two thousand two hundred fifty dollars per annum. The recorder shall collect and pay into the county treasury the fees required by law.

4. The auditor one thousand dollars per annum.

5. The treasurer two thousand dollars per annum.

6. The tax collector one thousand dollars per annum.

7. The assessor four thousand two hundred and fifty dollars per annum.

8. The district attorney, two thousand two hundred fifty dollars per annum.

9. The coroner, such fees as are now or may hereafter be allowed by law.

10. The public administrator, such fees as are now, or may hereafter be allowed by law.

11. The superintendent of schools, eighteen hundred dollars per annum, including services on board of education. He shall be allowed his actual traveling expenses not to exceed three hundred dollars per annum; he shall also be allowed one deputy whose salary shall be fifty dollars per month, payable the same as the salaries of county officers; provided, that he shall keep his office open from 9 o'clock A. M. to 5 o'clock P. M. of each business day.

12. The surveyor shall receive a per diem of ten dollars for all work performed for the county, and in addition thereto, all necessary expenses and transportation on work performed in the field.

13. The justices of the peace, such fees as are now or may hereafter be allowed by law; provided, that the amount allowed by the board of supervisors for services in prosecutions under section six hundred and forty-seven of the Penal Code, and prosecutions for fraudulently evading or attempting to evade the payment of fare for traveling on any railroad, shall not exceed twenty dollars for any one month; provided, further, that the amount allowed by the board of supervisors for services in prosecutions of misdemeanor cases other than those hereinbefore specified in this subdivision, shall not exceed the sum of thirty dollars for any one month.

14. The constable shall receive the following fees, to wit: for serving summons and complaint, for each defendant served, one dollar; for each copy of summons for service when made by him, twenty-five cents; for levying writ of attachment or execution or executing order of arrest or for the delivery of personal property, one dollar; for keeping personal property, such sum as the court may order, but no more than two dollars per day shall be allowed for a keeper when necessarily employed; for taking bond or undertaking, fifty cents; for copies of writs and other papers, except summons, complaints and subpoenas, per folio ten cents; provided, that when correct copies are furnished him for use, no charge shall be made for copies; for serving any writ, notice or order, except summons, complaints or subpoenas, for each person served, fifty cents;

for writing and posting each notice of sale of property, twenty-five cents; for serving subpoenas, each witness, including copy, twenty-five cents; for collecting money on execution, two and one-half per cent, to be charged against the defendant named in the execution; for executing and delivering certificate of sale, one dollar; for executing and delivering constable's deed, two dollars; for every mile necessarily traveled in his township, in going only, to serve any civil or criminal process or paper, or to take a prisoner before a magistrate or to prison, twenty-five cents; outside of his township, but within his county, twenty cents; but when two or more persons are served or summoned in the same suit and at the same time, mileage shall be charged only for the more distant if they live in the same direction; for each mile necessarily traveled outside of his county in making criminal arrests, both going and returning from place of arrest, ten cents; in transporting prisoners to the county jail, or before a magistrate, either upon arrest or for trial or examination, or after conviction, he shall receive in addition to the above mileage, his actual and necessary expenses for himself and prisoner; provided, that where two or more prisoners are transported at the same time, no more than one mileage shall be allowed; for making each arrest in criminal cases, one dollar and fifty cents; for sales of estrays, the same fees as for sales on execution; for summoning a jury, two dollars, including mileage; for all other services, the same fees as are allowed sheriffs for like services; provided further, that no more than sixty dollars shall be allowed to any constable in counties of this class in any one month for fees and mileage in criminal matters.

15. Each supervisor, six hundred dollars per annum, and twenty cents per mile for traveling from his residence to and from the county seat; provided, such mileage shall not be allowed more than once a month; and for his services as road commissioner, he shall receive twenty cents per mile one way for all distances actually and necessarily traveled by him in the performance of his duties; provided, he shall not in any one year receive more than three hundred dollars as such road commissioner.

16. In counties of this class grand jurors and jurors in the superior court shall receive for each day's attendance the sum of three dollars, and for each mile actually and necessarily traveled from their residence to the county seat, the sum of twenty-five cents; such mileage to be allowed but once during each session such jurors are required to attend. [Amendment approved March 20, 1905. Stata. 1905, p. 371. In effect in sixty days.]

§ 186. In counties of the twenty-ninth class the county officers shall receive, as compensation for the services required of them by law or by virtue of their offices, the following salaries, to wit:

1. The county clerk, two thousand two hundred and fifty (\$2250) dollars per annum, and when a new great register of voters is ordered, he shall receive in addition, fifteen (15) cents per name for each voter registered, which shall be in full for all services required in registering voters and making the great register; provided, that in counties of this class there shall be and is hereby allowed to the county clerk, a deputy, who

shall be appointed by said county clerk, who shall be paid a salary of seventy-five dollars (\$75) per month, said salary to be paid by said county in monthly installments at the same time and in the same manner and out of the same fund, as the salary of the county clerk is paid.

2. The sheriff, four thousand five hundred dollars (\$4500) per annum; and, also all fees for services of papers in actions arising outside of his county.

3. The recorder, two thousand one hundred dollars (\$2100) per annum.

4. The auditor, one thousand two hundred dollars (\$1200) per annum.

5. The treasurer, two thousand one hundred dollars (\$2100) per annum.

6. The tax collector, one thousand (\$1000) per annum.

7. The assessor, two thousand five hundred dollars (\$2500) per annum; and also such fees and commissions as are allowed by law.

8. The district attorney, two thousand four hundred dollars (\$2400) per annum.

9. The superintendent of schools, two thousand one hundred dollars (\$2100) per annum and actual traveling expenses when visiting the schools of his county.

10. The coroner, such fees as are now or may be hereafter allowed by law.

11. The public administrator, such fees as are now or may be hereafter allowed by law.

12. The surveyor, such fees as are now or may be hereafter allowed by law.

13. Justices of the peace, such fees as are now or may be hereafter allowed by law.

14. Constables, such fees as are now or may be hereafter allowed by law, and in addition thereto three dollars (\$3) per day for each day's actual attendance in court during a jury trial therein or a preliminary examination for felony; provided, that no constable shall receive more than three dollars (\$3) for any one day's attendance on any court.

15. Each supervisor, fifty dollars (\$50) per month and mileage at the rate of ten cents per mile for traveling to and from his residence to the county seat at each session.

16. Each member of the board of education, including the secretary, five dollars (\$5) per day when the board is in session, and ten cents per mile for traveling to and from his or her residence to the county seat at each session, unless otherwise provided for by law. [Amendment approved March 20, 1905. Stats. 1905, p. 299. In effect on the first Monday after the first day of January, 1907.]

§ 187. In counties of the thirtieth class the county officers shall receive as compensation for the services required of them by law or by virtue of their offices the following salaries, to wit:

1. The county clerk, three thousand dollars per annum.

2. The sheriff, five thousand seven hundred dollars per annum. Also, the following, to be audited and paid as other county charges: For every mile necessarily traveled in executing any warrant of arrest,

twenty-five cents per mile; for taking prisoners to magistrate or jail, the actual cost of such transportation.

3. The recorder, three thousand dollars per annum, which shall be in full for all services.

4. The auditor, one thousand eight hundred dollars per annum.

5. Tax collector, two thousand dollars per annum.

6. Assessor, three thousand two hundred dollars per annum.

7. The treasurer, one thousand six hundred dollars per annum.

8. The district attorney, one thousand eight hundred dollars per annum.

9. The coroner, such fees as are now or may hereafter be allowed by law.

10. The public administrator, such fees as are now or may hereafter be allowed by law.

11. The superintendent of schools, two thousand five hundred dollars per annum, which shall be in full for all services performed, including the visiting of the schools of his county; provided, that he may receive such fees as are now or may hereafter be allowed by law for services as a member of the county board of education.

12. The county surveyor shall receive one thousand eight hundred dollars per annum, and the necessary cost of transportation to and from, and necessary expenses while in the field when engaged on public work.

13. For the purpose of regulating the compensation of justices of the peace, townships in this class of counties are hereby classified according to their population as shown by the federal census of one thousand nine hundred, as follows:

Townships having a population of four thousand or more, shall belong to and be known as townships of the first class; townships having a population of two thousand and less than four thousand shall belong to and be known as townships of the second class; townships having a population of one thousand and less than two thousand shall belong to and be known as townships of the third class; townships having a population of over five hundred and less than one thousand shall belong to and be known as townships of the fourth class; and townships having a population of less than five hundred shall belong to and be known as townships of the fifth class.

Justices of the peace shall receive the following salaries, which shall be paid monthly, in the same manner such salaries of county officers are paid, and shall be in full of all services rendered by them in criminal cases; provided, however, that if two justices of the peace shall be elected and qualify in any township, then the said justices shall each receive one-half ($\frac{1}{2}$) of the salary herein provided for:

In townships of the first class, seventy dollars;

In townships of the second class, sixty dollars;

In townships of the third class, forty dollars;

In townships of the fourth class, twenty dollars;

In townships of the fifth class, ten dollars; provided, that each justice of the peace shall, before receiving his monthly salary, file with the auditor a statement of all fines received, together with the treasurer's receipt for the same. In addition to the monthly salaries herein al-

lowed, each justice of the peace may receive and retain for his own use such fees as are now or may hereafter be allowed by law, for all services rendered by him in civil actions.

14. For the purpose of regulating the salaries of constables, townships in this class of counties are hereby classified according to their population as shown by the federal census of one thousand nine hundred, as follows: Townships having a population of four thousand or more shall belong to and be known as townships of the first class; townships having a population of two thousand and less than four thousand shall belong to and be known as townships of the second class; townships having a population of one thousand and less than two thousand shall belong to and be known as townships of the third class; townships having a population of over five hundred and less than one thousand shall belong to and be known as townships of the fourth class; and townships having a population of less than five hundred shall belong to and be known as townships of the fifth class. Constables shall receive the following salaries, which shall be paid monthly, in the same manner as such salaries of county officers are paid, and shall be in full of all services rendered by them in criminal cases; provided, however, that if two constables shall be elected and qualify in any township, then each of the said constables shall each receive one-half ($\frac{1}{2}$) of the salary herein provided for:

In townships of the first class, eighty dollars;

In townships of the second class, seventy dollars;

In townships of the third class, fifty dollars;

In townships of the fourth class, twenty-five dollars;

In townships of the fifth class, ten dollars.

In addition to the monthly salaries herein allowed, each constable may receive and retain for his own use such fees as are now or may hereafter be allowed by law for all services rendered by him in civil actions, and shall also be allowed all necessary expenses actually incurred in arresting and conveying prisoners to court or to prison, which said expenses shall be audited and allowed by the board of supervisors and paid out of the county treasury.

15. Each supervisor, six dollars per day when the board is in session and twenty cents per mile for traveling from his residence to the county seat. For his services as road commissioner, three hundred dollars per annum, payable in monthly installments.

16. In counties of this class the official reporter of the superior court shall receive, as full compensation for taking notes in all civil and criminal causes and proceedings in said court, and for taking notes of the proceedings and testimony at all coroner's inquests in the county, and for taking notes of the testimony and proceedings in all examinations before committing magistrates, and for taking notes of the testimony and proceedings of cases and commissions for the examination of persons charged with being of unsound mind, a monthly salary of one hundred dollars, payable out of the county treasury at the same time and in the same manner as the salaries of county officers; and for the transcription of said notes, when the transcription thereof is required

by law, or by order of the court, or by demand of any party to the suit or proceeding, he shall receive the sum of ten cents per folio for the original and five cents per folio for a copy; said compensation for transcription in all criminal cases and coroner's inquests and examinations of persons charged with being of unsound mind, to be audited and allowed by the board of supervisors, as other claims against the county, and in civil cases and proceedings to be paid by the party ordering the same, or, when ordered by the judge, by either party, or jointly by both parties, when and in such proportions as the court may direct. When necessary for such reporter to travel away from the county seat, he shall receive his actual and necessary traveling expenses, to be allowed and paid by the board of supervisors as are other county charges. [Amendment approved March 20, 1905. Stats. 1905, p. 310. In effect in sixty days.]

§ 188. In counties of the thirty-first class, the county officers shall receive, as compensation for the services required of them by law or by virtue of their offices, the following salaries, to wit:

1. The county clerk, three thousand dollars per annum, and when a new great register of voters is ordered, he shall receive five hundred dollars additional, which shall be in full for all services required in registering voters and making the great register.

2. The sheriff, four thousand five hundred dollars per annum.

3. The recorder, two thousand five hundred dollars per annum.

4. The auditor, fifteen hundred dollars per annum.

5. The treasurer, two thousand dollars per annum.

6. The tax collector, twelve hundred dollars per annum.

7. The assessor, three thousand dollars per annum.

8. The district attorney, two thousand three hundred dollars per annum.

9. The coroner, such fees as are now or may be hereafter allowed by law.

10. The public administrator, such fees as are now or may be hereafter allowed by law.

11. The superintendent of schools, one thousand six hundred dollars per annum, and actual traveling expenses when visiting the schools of his county.

12. The county surveyor, one thousand five hundred dollars per annum, he to furnish all necessary instruments; but transportation charges for field work shall be allowed him. He shall not be required to perform county work more than two-thirds of the working days in any month except on payment of fees now allowed by law.

13. Justices of the peace, the following monthly salaries, to be paid each month as county officers are paid, which shall be in full for all services rendered by them in criminal cases: In townships having a population of twenty-five hundred and more, sixty-five dollars; in townships having a population of fifteen hundred and less than twenty-five hundred, forty dollars; in townships having a population of one thousand and less than fifteen hundred, twenty-five dollars; in townships

having a population of less than one thousand, ten dollars. Each justice must pay into the county treasury once a month, all fines collected by him. In addition to the monthly salary allowed herein each justice may receive for his own use such fees as are now or may hereafter be allowed by law, for all services performed by him in civil actions. In all townships having a population of less than twenty-five hundred if there be more than one justice, the compensation allowed herein shall be equally divided between them so that the sum total of their monthly compensation shall not exceed the salary allowed herein for a single justice in such township.

14. Constables, the following salaries, which shall be paid monthly as salaries of county officers are paid, and shall be in full for all services rendered by them in criminal cases, to wit: In townships having a population of twenty-five hundred or more, seventy dollars; in townships having a population of fifteen hundred and less than twenty-five hundred, forty-five dollars; in townships having a population of one thousand and less than fifteen hundred, thirty dollars; in townships having a population of less than one thousand, fifteen dollars. In addition to the monthly salary allowed herein each constable may receive and retain for his own use, such fees as are now or may hereafter be allowed by law for all the services performed by him in civil actions. In all townships having a population less than twenty-five hundred, if there be more than one constable, the compensation herein allowed shall be equally divided between them so that the sum total of their monthly compensation shall not exceed the salary allowed herein for a single constable in such township. The board of supervisors shall during each and every year, ascertain and determine the population of the several townships of the county for the purposes of ascertaining the compensation of township officers regulated by this section, in proportion to their duties.

15. Each supervisor, five hundred dollars per annum and his necessary expenses when attending to the business of his county, other than the meetings of the board, and thirty cents per mile in going from his residence to the county seat at each meeting of the board, and three hundred dollars per annum, payable quarterly, for services as road commissioner.

16. In counties of this class the official reporter of the superior court shall receive, as full compensation for taking notes in civil and criminal cases tried in said court, and, when requested by the district attorney, in preliminary examinations and inquests, a monthly salary of one hundred dollars, payable out of the county treasury at the same time and in the same manner as the salaries of county officers; and for transcription of said notes, when required, he shall receive the sum of ten cents per folio for the original and five cents per folio for the copy; said compensation for transcriptions in criminal cases, preliminary examinations, and inquests, to be audited and allowed by the board of supervisors as other claims against the county, and paid out of the county treasury, and in civil cases to be paid by the party ordering the same, or, when ordered by the judge, by either party, or jointly by both parties, as the court may direct.

17. Subdivisions twelve and fifteen of this section shall take effect immediately. [Amendment approved March 23, 1901. Stats. 1901, p. 757. In effect partly immediately and partly 12 M. on the first Monday after January 1, 1903.]

§ 189. In counties of the thirty-second class, the county officers shall receive as compensation for the services required of them by law, or by virtue of their office, the following salaries, to wit:

1. The county clerk, three thousand dollars per annum, and in any year when a new great register of voters is required by law, he shall receive five hundred dollars additional for said year, which shall be in full for all services required in registering voters and making such new great register.

2. The sheriff, four thousand five hundred dollars per annum, and mileage at the rate of twenty-five cents per mile necessarily traveled in going only.

3. The recorder, three thousand five hundred dollars per annum.

4. The auditor, one thousand eight hundred dollars per annum.

5. The treasurer, one thousand eight hundred dollars per annum.

6. The tax collector, two thousand dollars per annum.

7. The assessor, four thousand dollars per annum.

8. The district attorney, two thousand four hundred dollars per annum.

9. The coroner, such fees as are now or may be hereafter allowed by law.

10. The public administrator, such fees as are now or may be hereafter allowed by law.

11. The superintendent of schools, one thousand five hundred dollars per annum, and actual traveling expenses when visiting the schools of his county.

12. The surveyor shall receive one thousand six hundred dollars per annum for all work performed for the county, and in addition thereto, actual traveling and other necessary expenses incurred in connection with field work; provided, that whenever the surveyor is directed by the assessor to plat, trace, or otherwise prepare maps, plats, or block books for the use of the county assessor, he shall be allowed only the actual cost of preparing the same.

13. Justices of the peace shall receive the following monthly salaries, to be paid each month as salaries of the county officers are paid, which shall be in full for all services rendered by them in criminal cases:

In townships having a population of three thousand five hundred or more, seventy-five dollars per month. In townships having a population of not less than two thousand nor more than three thousand five hundred, seventy dollars per month. In townships having a population of not less than twelve hundred nor more than two thousand, fifteen dollars per month. In all townships having a population of less than twelve hundred, ten dollars per month. In addition to the above salary each justice of the peace shall collect and retain for his own use and benefit in civil cases, such fees as are now or may be hereafter allowed by law, and shall also collect and retain for his own use such fees as are now

or may be hereafter allowed by law for services rendered by him as coroner, when acting as such.

14. Constables shall receive the following monthly salaries, to be paid each month as salaries of the county officers are paid, which shall be in full for all services rendered by them in criminal cases: In townships having a population of three thousand five hundred or more, seventy-five dollars per month. In townships having a population of not less than two thousand nor more than three thousand five hundred, seventy dollars per month. In townships having a population of not less than twelve hundred nor more than two thousand, fifteen dollars per month. In all townships having a population of less than twelve hundred, ten dollars per month. In addition to the monthly salary allowed herein, each constable may collect and retain for his own use such fees as are now or may be hereafter allowed by law for all services performed by him in civil actions; and he shall also be allowed his actual and necessary expenses incurred in executing any warrant outside of his county issued by a magistrate or justice of his county.

Constables shall also be allowed all necessary expenses actually incurred in arresting and conveying prisoners to the county jail, which said expenses shall be audited and allowed by the board of supervisors, and paid out of the county treasury.

15. Each member of the board of education shall receive five dollars per day as compensation for his services when in actual attendance upon said board, and mileage at the rate of twenty-five cents per mile, one way only, from his residence to the place of meeting of said board. The secretary of said board of education shall receive five dollars per day for his services for the actual time that the board may be in session. Said compensation of the members of said board, and of said secretary shall be paid out of the same fund as the salary of the superintendent of schools is paid. Claims for such services and mileage shall be presented to the board of supervisors, and shall be allowed at the rate above named, in the same manner as other claims against the county are allowed. The compensation of the members of the county board of education, herein provided is not in addition to that provided in section one thousand seven hundred and seventy of the Political Code.

16. Each supervisor, nine hundred dollars per annum, and twenty cents per mile for traveling from his residence to the county seat; provided, that when a supervisor is also road commissioner, he shall receive, in addition to the twenty cents per mile allowed to him by law as such road commissioner his actual traveling expenses, the total mileage and expenses not in any one year to exceed the sum of three hundred dollars. [Amendment approved March 20, 1905. Stats. 1905, p. 358. In effect on the first Monday after January 1, 1907.]

§ 190. In counties of the thirty-third (33) class, the county officers shall receive, as compensation for the services required of them by law or by virtue of their office, the following salaries, to wit:

1. The county clerk, one thousand five hundred dollars (\$1,500) per annum.

2. The sheriff, three thousand five hundred dollars (\$3,500) per annum, and a jailer at fifty dollars (\$50) per month, to be paid out of the county treasury; provided, the sheriff shall also receive for his own use and benefit his necessary expenses in all criminal cases, to be allowed as other county charges are allowed by law; and, provided further, that the sheriff shall also receive for his own use and benefit, the mileage, fees and commissions for all services of all papers whatsoever issued by any court of the state outside of his own county.

3. The recorder, one thousand five hundred dollars (\$1500) per annum.

4. The auditor, one thousand dollars (\$1000) per annum.

5. The treasurer, one thousand five hundred dollars (\$1500) per annum.

6. The tax collector, twelve hundred dollars (\$1200) per annum and ten per cent of all licenses collected by him; and a deputy, at four dollars (\$4) per day for not more than one hundred (100) days in any one year, to be paid out of the county treasury.

7. The assessor, two thousand five hundred dollars (\$2500) per annum and two deputies at a salary of five dollars (\$5) each per day for not more than one hundred (100) days in any one year, and two deputies additional, at a salary of five dollars (\$5) each per day for not more than fifty (50) days in any one year; such deputies to be paid out of the county treasury.

8. The district attorney, two thousand dollars (\$2000) per annum and necessary traveling expenses to be allowed by the board of supervisors.

9. The coroner, such fees as are now or may be hereafter allowed by law.

10. The public administrator, such fees as are now or may be hereafter allowed by law.

11. The superintendent of schools, fifteen hundred dollars (\$1500), per annum, and actual traveling expenses, when visiting the schools of his county.

12. The surveyor, such fees as are now or may be hereafter allowed by law; provided, he shall be given all work for the county in which the county employs one surveyor or civil engineer.

13. In counties of this class, the township officers shall receive the following compensations, to wit: In townships having a population of over four thousand (4000), justices of the peace shall receive a monthly salary of sixty (\$60) dollars per month, and constables a monthly salary of sixty-five dollars (\$65) per month. The above named salaries shall be in full compensation for all services of said justices of the peace and constables in criminal cases, but said justices of the peace and constables may retain for their own use the fees allowed by law in civil cases.

In townships having a population of more than twenty-seven hundred (2700), and not exceeding four thousand (4000), justices of the peace shall receive a monthly salary of thirty dollars (\$30) per month, and constables a monthly salary of forty dollars per month. The above named salaries shall be in full compensation for all services of said justices of the peace and constables in criminal cases, but said justices of the peace and constables may retain for their own use the fees allowed by law in civil cases.

In townships having a population of more than two thousand (2000) and less than twenty-seven hundred (2700), justices of the peace shall

receive a monthly salary of twenty-five dollars (\$25) per month and constables a monthly salary of thirty-five dollars (\$35) per month. The above named salaries shall be in full compensation for all services of said justices of the peace and constables in criminal cases, but said justices of the peace and constables may retain for their own use the fees allowed by law in civil cases.

In townships having a population of less than two thousand (2000), justices of the peace shall receive a monthly salary of twenty dollars (\$20) per month and constables a monthly salary of twenty-five dollars (\$25) per month. The above named salaries shall be in full compensation for all services of said justices of the peace and constables in criminal cases, but said justices of the peace and constables may retain for their own use the fees allowed by law in civil cases; provided, that where a constable shall be required to travel outside of his own township, in serving or executing a warrant of arrest or any other paper in a criminal case, he shall be allowed, in addition to the salary hereinbefore provided, his actual expenses incurred in serving or executing the same, to be allowed by the board of supervisors; for transporting prisoners to the county jail, the actual expenses of such transportation; and provided further, that for the purpose of this act, the population of the several townships shall be ascertained by multiplying the number of registered voters at the last general election of each township, by five. In addition to the above salaries allowed said justices of the peace and constables for their services in criminal cases, they may retain for their own use the fees allowed by law in civil cases.

14. Each supervisor, six hundred dollars (\$600) per annum and twenty (20) cents per mile traveling to county seat, which shall be in full compensation for all services, both as supervisor and road commissioner; provided, that in case the said supervisors shall not serve as road commissioners, the salary for supervisor shall be four hundred dollars (\$400) per annum.

15. For attending as a grand juror, or a trial juror in criminal cases only, in the superior court, for each day's attendance, three (3) dollars; for each mile actually traveled one way as such grand juror, or trial juror in criminal cases, in the superior court, under summons or order of the court, twenty-five cents. The county clerk shall certify to the auditor the number of days' attendance, and the number of miles traveled by each juror and the auditor shall then draw his warrant therefor and the treasurer shall pay the same.

16. This act shall take effect and be in force from and after its passage and so far as it relates to the fees and mileage of jurors and traveling expenses of constables, shall take effect immediately, but shall not affect the compensation of other officers during the present term of office. [Amendment approved March 20, 1905. Stats. 1905, p. 376.]

§ 191. In counties of the thirty-fourth class the county officers shall receive as compensation for the services required of them by law or by virtue of their office, the following salaries, to wit:

1. The county clerk, two thousand four hundred dollars per annum, and during each year in which a general election is held throughout the state he shall in addition to said salary receive each month for the months of August, September, October and November, one hundred dollars, and the same shall be so paid from the same fund as other salaries are paid.

2. The sheriff, four thousand dollars per annum, and the fees, mileage and commissions for the services of all papers issued by any court of the state outside of this county. Also his actual traveling expenses in the execution of a warrant outside of his county issued by a magistrate or court of his county.

3. The recorder, one thousand five hundred dollars per annum; provided, that such recorder shall collect and pay into the county treasury, for the use and benefit of the county, the fees required by law to be so collected; and provided, that when the amount of said fees collected shall amount to more than one hundred and twenty-five dollars in any month, the recorder may receive and retain for his own use, in addition to his salary, all fees in excess of one hundred and twenty-five dollars, and not exceeding one hundred and seventy-five dollars, in any month so collected; so that the amount of fees thus received by the recorder for his own use, plus the salary, shall not exceed the sum of one hundred and seventy-five dollars in any one month.

4. The auditor, one thousand dollars per annum.

5. The treasurer, one thousand four hundred dollars per annum.

6. The tax collector, one thousand two hundred dollars per annum, and ten per cent of all licenses collected by him.

7. The assessor, twenty-six hundred dollars per annum; provided, that in counties of this class there shall be one deputy assessor, who shall be appointed by the assessor of said county and who shall hold office from 12 o'clock meridian of the first Monday of March of each year up to 12 o'clock meridian of the first Monday in July of each year. The salary of said deputy assessor herein provided for is hereby fixed at the sum of one hundred dollars per month during which months he shall hold office as herein provided, which said salary shall be paid by said county at the same time and in the same manner and out of the same fund as is the salary of the assessor.

8. The district attorney, fifteen hundred dollars per annum.

9. The coroner, six hundred dollars per annum.

10. The public administrator, such fees as are now or may be hereafter allowed by law.

11. The superintendent of schools, one thousand dollars per annum, and actual traveling expenses while visiting the schools of his county.

12. The surveyor, such fees as are now or may be hereafter allowed by law; provided, he shall be given all work for the county in which the county employs a surveyor or civil engineer; and provided further, that it shall be the duty of the board of supervisors of counties of this class to so employ him.

13. Supervisors, each the sum of six hundred dollars per annum for all services performed by them, as supervisors, and members of the board of equalization and road commissioners; provided, that each supervisor shall

receive ten cents for each mile traveled by the ordinary route, in going from his residence to the county seat and returning, once during each month.

14. For the purpose of regulating the compensation of justices of the peace and constables, townships of this class or counties are hereby classified according to their population as shown by the federal census of 1900; townships having a population of two thousand four hundred and not over four thousand shall be classified as townships of the first class, and townships having a population of less than two thousand four hundred shall belong to and be known as townships of the second class.

15. In townships of the first class, justices of the peace shall receive forty dollars a month to be paid each month out of the same fund and at the same time as the county officers are paid, and which sum shall be in full compensation for all services rendered by them in criminal cases. In townships of the second class, justices of the peace shall receive thirty dollars per month to be paid each month out of the same fund and at the same time as the county officers are paid and which sum shall be in full compensation for all services rendered by them in criminal cases.

16. Constables in counties of this class shall receive the following monthly salaries to be paid each month out of the same fund and at the same time as the county officers are paid, which sum shall be in full compensation for all services rendered by them in criminal cases, the same to include all costs of transportation of all prisoners within the county, to wit: Constables in townships of the first class shall receive a monthly salary of sixty dollars per month, and constables of townships of the second class shall receive a monthly salary of forty dollars per month. Provided further, that when any constable is required to go out of his own county to serve a warrant of arrest or any other paper in a criminal case he shall be allowed mileage both going and coming, outside of his own county, at the rate of ten cents per mile, but shall not be allowed any sum for any other expenses.

17. In counties of this class the official reporter of the superior court shall receive, as full compensation for taking notes in civil and criminal cases tried in said court, such fees as are now or may be hereafter provided by law; said compensation for per diem and transcription in criminal cases to be audited and allowed upon a written order of the court, and paid out of the county treasury, and in civil cases to be paid by the party ordering the same, or, when ordered by the judge, by either party, or jointly by both parties, as the court may direct.

Jurors and witness fees, in criminal cases, shall be as follows:

18. For attending as a grand juror or a trial juror in the superior court, in criminal cases only, for each day's attendance, per day, three dollars, for each mile actually traveled in attending court as such juror under summons or under order of court, in criminal cases, in going only, per mile, twenty-five cents and the county clerk shall certify to the auditor the number of days' attendance and number of miles traveled by each juror, and the auditor shall then draw his warrant therefor and the treasurer shall pay the same.

Witness fees shall be as follows:

19. For each day's actual attendance, when legally required to attend upon the superior court, per day, one dollar and fifty cents in criminal cases. Mileage actually traveled, one way only, per mile, ten cents; provided, however, that such per diem and mileage shall only be allowed on a showing to the court, by the witness, that he is in indigent circumstances and is unable to bear the expense incident to attending court, while required so to do, and that such per diem and mileage are necessary for the expenses of the witness in attending; and the court shall determine the necessity of the same, and shall then make an order directing the auditor to draw his warrant on the county treasurer for the amount allowed, and the treasurer shall pay the same. The court may disallow any fee to a witness unnecessarily subpoenaed.

This act shall take effect and be in force from and after its passage and so far as the same relates to the salary of the justices of the peace and constables and the compensation of the official reporter of the superior court, it shall affect and apply to present incumbents. [Amendment approved March 20, 1905. Stats. 1905, p. 335.]

§ 192. In counties of the thirty-fifth class, the county officers shall receive, as compensation for the service required of them by law or by virtue of their office, the following salaries, to wit:

1. The county clerk, one thousand five hundred dollars per annum.
2. The sheriff, four thousand two hundred and fifty dollars per annum; provided, the sheriff shall also receive for his own use and benefit his necessary expenses in all criminal cases, to be allowed as other county charges are allowed by law; and, provided further, that the sheriff shall also receive for his own use and benefit, the mileage, fees, and commissions for all service of all papers whatsoever issued by any court of the state outside of his county.
3. The recorder, one thousand eight hundred dollars per annum.
4. The auditor, one thousand dollars per annum.
5. The treasurer, one thousand eight hundred dollars per annum.
6. The tax collector, five hundred dollars per annum; provided, as license collector, he shall, in addition, be entitled to receive, and retain for his own use and benefit, ten per cent on all licenses collected by him.
7. The assessor, one thousand eight hundred dollars per annum, and one deputy not to exceed five dollars per day for not more than one hundred and twenty-five days in any year, and one field deputy not to exceed five dollars per day, for not more than one hundred and twenty-five days in any one year to be paid out of the county treasury.
8. The district attorney, one thousand eight hundred dollars per annum; provided, he may charge and receive for his own use necessary expenses for traveling on county and public business, to be allowed as other county charges are allowed by law.
9. The coroner, such fees as are now or may be hereafter allowed by law.
10. The public administrator, such fees as are now or may be hereafter allowed by law.
11. The superintendent of schools, six hundred dollars per annum, and actual traveling expenses when visiting the schools of his county. And

if the board of supervisors provide that he shall not engage in teaching, then he shall receive one thousand two hundred dollars per annum, and traveling expenses, not to exceed three hundred dollars per annum, which expenses are to be allowed and paid as a county charge.

12. The surveyor, such fees as are now or may be hereafter allowed by law; provided, he shall be given all work for the county in which the county employs one surveyor or civil engineer.

13. In counties of this class the township officers, shall receive the following compensation, to wit:

In townships having a population of three thousand or more, justices of the peace shall receive a monthly salary of forty dollars per month, and constables a monthly salary of sixty dollars per month.

In townships having a population of more than twenty-two hundred and less than three thousand, the justices of the peace shall receive a monthly salary of thirty-five dollars per month, and constables a monthly salary of fifty-five dollars per month.

In townships having a population of more than eighteen hundred and less than twenty-two hundred, justices of the peace shall receive a monthly salary of thirty dollars per month, and constables a monthly salary of fifty dollars per month.

In townships having a population of more than fourteen hundred and not less than eighteen hundred, justices of the peace shall receive a monthly salary of twenty-five dollars per month, and constables a monthly salary of forty-five dollars per month.

In townships having a population of less than fourteen hundred, justices of the peace shall receive a monthly salary of twenty-five dollars per month, and constables a monthly salary of forty dollars per month. The above named salaries shall be in full compensation for all services of said justices of the peace and constables in criminal cases; provided, that, in addition to the salary herein allowed, each constable shall be paid out of the treasury of the county for traveling expenses outside of his township, for service of a warrant of arrest or any other paper in a criminal case, such fees as they are now or may be hereafter allowed by law, for transporting prisoners to the county jail, the actual expenses of such transportation; and, provided further, that for the purpose of this act, the population of the several townships, shall be ascertained by multiplying the number of registered voters at the last general election by five. But said justices of the peace and constables may retain for their own use, the fees allowed by law in civil cases.

14. Each supervisor, four hundred dollars per annum, and ten cents per mile for traveling to and from his residence to the county seat at each session; and, unless otherwise provided by law, when serving as road commissioner, three dollars per day. But he shall not in any one year receive more than three hundred dollars for services as such road commissioner. [Amendment approved March 18, 1903. Stats. 1903, p. 200. In effect immediately.]

§ 193. In counties of the thirty-sixth class, the county officers shall receive as compensation for the services required of them by law, or by virtue of their office, the following salaries, to wit:

1. The county clerk, twenty-two hundred dollars per annum.
2. The sheriff, forty-five hundred dollars per annum.
3. The recorder, three thousand dollars per annum.
4. The auditor, one thousand dollars per annum.
5. The treasurer, one thousand eight hundred dollars per annum.
6. The tax collector, one thousand dollars per annum, and five per cent on all licenses collected by him as license collector.
7. The assessor, two thousand five hundred dollars per annum.
8. The district attorney, one thousand eight hundred dollars per annum.
9. The coroner, such fees as are now or may be hereafter allowed by law.
10. The public administrator, such fees as are now or may be hereafter allowed by law.
11. The superintendent of schools, one thousand five hundred dollars per annum, and actual traveling expenses when visiting the schools of his county.
12. The surveyor, one thousand five hundred dollars per annum, which shall be in full for all services required of him by the superior court or the board of supervisors; provided, that he shall be entitled to receive from the county his actual expenses incurred in the performance of any order of the court or the board of supervisors; provided further, that whenever the surveyor is directed by the board of supervisors to plat, trace or otherwise prepare maps, plats or block books for the use of the county assessor, he shall be allowed only the actual cost of preparing the same.
13. Justices of the peace, such fees as are now or may be hereafter allowed by law.
14. Constables, such fees as are now or may be hereafter allowed by law.
15. Each supervisor, seven hundred and fifty dollars per annum, which shall be in full for all services as supervisor and road commissioner for each year. Said salary of seven hundred and fifty dollars shall be payable monthly. [Amendment approved March 20, 1905. Stats. 1905, p. 365. In effect in sixty days.]

§ 194. In counties of the thirty-seventh class, the county officers shall receive as compensation for their services required of them by law, or by virtue of their office, the following salaries, to wit:

1. The county clerk, twenty-five hundred dollars, per annum.
2. The sheriff, four thousand dollars per annum, and one jailer at a salary of nine hundred dollars per annum.
3. The recorder, eighteen hundred dollars per annum.
4. The auditor, fifteen hundred dollars per annum.
5. The treasurer, fifteen hundred dollars per annum.
6. The tax collector, two thousand dollars per annum, which shall be in full for all services as tax collector and as license collector.
7. The assessor, fifteen hundred dollars per annum.
8. The district attorney, eighteen hundred dollars per annum.
9. The coroner, such fees as are now or may hereafter be provided by law.

10. The public administrator, such fees as are now or may hereafter be provided by law.

11. The superintendent of schools, fifteen hundred dollars per annum.

12. The surveyor, such fees as are now or may hereafter be provided by law.

13. Each supervisor shall receive for compensation five dollars per day for all services performed as supervisor and member of the board of equalization, not to exceed the sum of four hundred dollars per annum; also, three dollars per day for each day actually engaged in performing the duties of road commissioner, not to exceed three hundred dollars per annum. The supervisors of counties of this class shall be elected from their respective supervisorial districts at the next general election as follows, to wit: The term of office of the supervisors elected from the first and third supervisorial districts shall expire in two years from such general election and the term of office of the supervisors elected from the second, fourth, and fifth supervisorial districts shall terminate in four years from such general election.

14. In counties of this class, the township officers shall receive the following compensation, to wit: In townships having a population of four thousand, justices of the peace shall receive a monthly salary of seventy-five dollars; and constables a monthly salary of seventy-five dollars. The above-named salaries shall be in full compensation for all services of said justices of the peace and constables in criminal cases; they may also retain for their own use all other fees, except those in criminal cases, as are now or may hereafter be provided by law. In townships having a population of less than four thousand, each justice of the peace and each constable shall receive as compensation for his services such fees as are now, or may hereafter be, provided by law. [Amendment approved March 20, 1905, Stats. 1905, p. 308. In effect in sixty days.]

§ 195. In counties of the thirty-eighth (38) class (Stanislaus) the county officers shall receive as compensation for the services required of them by law or by virtue of their office, the following salaries, to wit:

1. The county clerk, two thousand seven hundred dollars per annum; and provided, that in each year when a new registration is required he shall receive in addition to his salary the sum of ten (10) cents for each elector registered, which amount shall be allowed by the board of supervisors at the close of registration preceding a general election, and paid from the general fund of the county.

2. The sheriff, five thousand dollars per annum, and fees, commissions, and mileage for the service of papers or process coming from courts other than those of his own county.

3. The recorder, one thousand six hundred dollars per annum; provided, that such recorder shall collect and pay into the county treasury, for the use and benefit of the county, the fees required by law to be so collected; and provided, that when the amount of said fees collected shall exceed two hundred and fifty dollars in any month, the recorder may receive and retain for his own use, in addition to his salary, one-half of all fees in excess of two hundred and fifty dollars in any month so collected. But the amount of

fees thus received by the recorder for his own use, plus his salary, shall not exceed the sum of three thousand dollars in any one year.

4. The auditor, one thousand six hundred dollars per annum.

5. The treasurer, one thousand six hundred dollars per annum, and the fees and commissions now or hereafter allowed by law.

6. The tax collector, one thousand dollars per annum, and the fees and commissions now or hereafter allowed by law.

7. The assessor, two thousand eight hundred dollars per annum, and the fees and commissions now or hereafter allowed by law. The assessor shall also be allowed the following deputies, viz.: One deputy for each bona fide increase of one hundred real estate statements made for assessment purposes over and above two thousand five hundred of such statements, and not to exceed in all six deputies. Each of such deputies shall receive a monthly compensation of one hundred dollars for a period of not to exceed two months in any one year, said compensation to be paid monthly in the same manner as county officers are paid.

8. The district attorney, two thousand dollars per annum.

9. The coroner, such fees as are now or may hereafter be allowed by law.

10. The public administrator, such fees as are now or may hereafter be allowed by law.

11. The superintendent of schools one thousand five hundred dollars per annum. He shall also be allowed his actual traveling expenses when visiting the schools of the county, which expense shall not exceed the sum of five hundred dollars in any one year. He shall receive nothing for his services as a member of the board of education. The superintendent of schools shall be allowed one deputy, to be appointed by the principal, which said deputy shall be allowed a salary of fifty dollars per month, to be paid at the same time and in the same manner as other county officers.

12. The surveyor shall receive one thousand eight hundred dollars per annum, and in addition thereto, actual traveling and other necessary expenses incurred in connection with field work. He shall have one deputy at a salary of one thousand dollars per annum; said deputy to be appointed by the principal and be paid at the same time and in the same manner as other county officers. It shall be the duty of the surveyor among other things, to make and correct all necessary plats, maps, and block-books for the assessor's office, and all necessary county and road maps, and all necessary plans and specifications for bridge work and county buildings; provided, however, that when in the judgment of the board of supervisors of the county, on the representations of the county surveyor, it is necessary to employ additional assistance for the performance of said work, the board of supervisors shall allow the necessary and actual expense therefor; provided, he shall receive nothing for preparing any map or plat necessary to accompany reports made by him on road work, nor for preparing and keeping up the necessary and proper records of his office. He shall at all times be subject to the orders of the board of supervisors.

13. For the purpose of regulating the compensation of justices of the peace and constables, townships of this class of counties are hereby classified according to their population as shown by the federal census of nineteen hundred: Townships having a population of two thousand eight hundred and

more shall belong to and be known as townships of the first class; townships having a population of two thousand four hundred and less than two thousand eight hundred shall belong to and be known as townships of the second class; townships having a population of one thousand six hundred and less than two thousand four hundred shall belong to and be known as townships of the third class; townships having a population of eight hundred and less than one thousand six hundred shall belong to and be known as townships of the fourth class; townships having a population of six hundred and fifty and less than eight hundred shall belong to and be known as townships of the fifth class; townships having a population of less than six hundred and fifty shall belong to and be known as townships of the sixth class; providing, that the board of supervisors of the county may, prior to any general election, consolidate two or more of such townships into one.

13½. Justices of the peace shall receive the following monthly salaries, to be paid each month as the county officers are paid, which shall be in full compensation for all services rendered by them in criminal cases, to wit: In townships of the first class, ninety dollars; in townships of the second class, fifty dollars; in townships of the third class, fifty dollars; in townships of the fourth class, forty dollars; in townships of the fifth and sixth class, twenty dollars. In addition to the monthly salaries herein allowed, each justice of the peace may receive and retain for his own use such fees as are now or may hereafter be allowed by law for all services rendered by him in civil actions; and justices of the first, second and third class shall be allowed their office rent, not to exceed the sum of five dollars each, for any one month. Each justice must pay into the county treasury, once a month, all fines collected by him.

14. Constables shall receive the following monthly salaries, to be paid each month as the county officers are paid, which shall be in full compensation for all services rendered by them in criminal cases, to wit: In townships of the first class, ninety dollars; in townships of the second class, eighty dollars; in townships of the third class, eighty dollars; in townships of the fourth class, fifty dollars; in townships of the fifth and sixth class, thirty dollars. In addition to the monthly salaries herein allowed, each constable may receive and retain for his own use such fees as are now or may hereafter be allowed by law for all services rendered by him in civil actions; and shall also be allowed all necessary expenses actually incurred in arresting and conveying prisoners to court or to prison, which expense shall be audited and allowed by the board of supervisors and paid out of the county treasury; provided further, that when any constable is required to go out of his own county to serve a warrant of arrest, or any other paper in a criminal case, he shall be allowed mileage, both going and returning, outside of his own county, at the rate of ten cents per mile.

15. Supervisors, each, the sum of six hundred dollars per annum, and mileage at the rate of ten cents per mile for each mile traveled in going to and from the meeting of the board; provided, that only one mileage at any one session of the board shall be allowed. They shall, from and after the passage of this act, act as road commissioners in their respective districts, and shall thereafter receive for their services as such road commissioners mileage at the rate of twenty cents per mile each, one way, for all distances

actually traveled by them in the discharge of their duties as such road commissioners; provided, that such mileage as road commissioner shall not, in any one year, exceed the sum of three hundred dollars for any one of the commissioners.

16. Witnesses in criminal cases shall receive one dollar and fifty cents per day, and ten cents per mile for each mile actually traveled, one way only. The court shall make an order directing the auditor to draw his warrant on the county treasurer for the amount due, and the treasurer shall pay the same. The court may disallow any fee to a witness unnecessarily subpoenaed. [Amendment approved March 20, 1905. Stats. 1905, p. 366. In effect in sixty days.]

§ 196. In counties of the thirty-ninth class the county officers shall receive as compensation for services required of them by law, by virtue of their offices, the following salaries, to wit:

1. The county clerk, two thousand dollars per annum.
2. The sheriff, five thousand dollars per annum and fees, commissions and mileage for the service of papers or process coming from courts other than those of his own county.
3. The recorder, one thousand six hundred dollars per annum; provided, that in counties of this class there shall be and is hereby allowed to the recorder a copyist who shall be appointed by the recorder and paid the salary of fifty dollars per month; said salary to be paid by said county in monthly installments at the time and in the same manner and out of the same fund as the salary of the recorder is paid; and provided that such recorder shall collect and pay into the county treasury for the use and benefit of the county the fees required to be paid by law so collected; and provided that when the amount of said fees collected shall exceed two hundred dollars in any month, the recorder may receive and retain for his own use, in addition to his own salary, one-half of all fees in excess of two hundred dollars in any month so collected. But the amount of fees thus received by the recorder for his own use, plus his salary shall not exceed the sum of two thousand dollars in one year.
4. The auditor, one thousand six hundred dollars per annum.
5. The treasurer, one thousand eight hundred dollars per annum.
6. The tax collector, one thousand five hundred dollars per annum.
7. The assessor, three thousand dollars per annum, and such fees as now or may hereafter be allowed by law. The assessor shall also be allowed the following deputies, viz.: one deputy for each bona fide increase of one hundred real estate statements made for assessment purposes over and above twenty-four hundred of such statements and not to exceed in all five deputies. Each of such deputies shall receive a monthly compensation of one hundred dollars for a period not to exceed two months in any one year, said compensation to be paid monthly in the same manner as county officers are paid. He shall prepare the military roll for which he shall receive five cents for each name thereon; that the assessor shall annually revise the plats in his office and prepare the military roll at his own cost and expense.
8. The district attorney, one thousand eight hundred dollars per annum.
9. The coroner, such fees as are now and may hereafter be allowed by law.

10. The public administrator, such fees as are now and may hereafter be allowed by law.

11. The superintendent of schools, one thousand four hundred dollars per annum, and shall also be allowed the compensation provided by law for services upon the board of education. He shall be allowed his actual traveling expenses when visiting schools of his county, which expense shall not exceed the sum of three hundred dollars in one year. Provided, in counties of this class there shall be and is hereby allowed to the superintendent of schools an assistant who shall be appointed by the superintendent of schools and paid a salary of fifty dollars per month, said salary to be paid by said county in monthly installments at the same time and in the same manner as out of the same fund as the salary of the superintendent of schools is paid.

12. The surveyor, such fees as are now or may be hereafter allowed by law. Provided the surveyor shall annually revise the plats in the office of the assessor for which he shall receive a sum not to exceed two hundred dollars in any one year.

13. Justices of the peace shall receive the following salaries for all services rendered by them in criminal cases, payable monthly in the same manner as county officers are paid, viz.: In townships having a population of more than three thousand five hundred, one hundred dollars per month; in townships having a population of less than three thousand five hundred and more than two thousand, seventy-five dollars per month; in townships having a population of less than two thousand, forty dollars per month. Justices of the peace in counties of this class shall also receive for their own use and benefit such fees as are now or may hereafter be allowed by law in civil cases. They shall also be allowed the actual rent for their offices, not to exceed ten dollars per month.

14. Constables shall receive the following salaries for all services rendered by them in criminal cases, payable monthly in the same manner as county officers are paid, viz.: In townships having a population of more than three thousand five hundred, one hundred dollars per month; in townships having a population of less than three thousand five hundred and more than two thousand, seventy-five dollars per month; in townships having a population of less than two thousand, forty dollars per month. Constables shall also receive for their own use and benefit such fees as are now or hereafter may be allowed by law in civil cases. They shall also be allowed their actual expenses in conveying prisoners from the place of arrest to the court, and in case of conviction, from court to the county jail.

15. Supervisors, each six hundred dollars per annum for all services performed by them as supervisors and members of the board of equalization and road commissioners, including mileage, provided, that each supervisor shall receive ten cents for each mile traveled by the ordinary route in going from his residence to the county seat and returning once during each meeting. Each supervisor shall be allowed his actual traveling expenses while supervising the roads of his district, not exceeding twenty dollars in any one month. [Amendment approved March 20, 1905. Stats. 1905, p. 338. In effect in sixty days.]

§ 197. In counties of the fortieth class, the county officers shall receive as compensation for the services required of them by law or by virtue of their offices, the following salaries and fees, to wit:

1. The county clerk, fifteen hundred dollars per annum.
2. The sheriff, three thousand dollars per annum, and all mileage for the service of papers issued out of any court outside of his county.
3. The recorder, twenty-one hundred dollars per annum.
4. The auditor, nine hundred dollars per annum.
5. The treasurer, fifteen hundred dollars per annum.
6. The tax collector, five hundred dollars per annum, and ten per cent on all licenses collected by him as license collector.
7. The assessor, three thousand five hundred dollars per annum.
8. The district attorney, fifteen hundred dollars per annum.
9. The coroner, such fees as are now, or may be hereafter allowed by law.
10. The public administrator, such fees as are now, or may be hereafter allowed by law.
11. The superintendent of schools, fifteen hundred dollars per annum, and actual traveling expenses when visiting the schools of his county.
12. The surveyor, such fees as are now, or may be hereafter allowed by law.
13. Each justice of the peace, the following fees: In civil actions before him, for all services required to be performed by him before trial, two dollars. For a trial, and all proceedings subsequent thereto, including all affidavits, swearing witnesses and jury, and the entry of judgment, four dollars.

In all cases where judgment is rendered by default or confession, for all services from the filing of the complaint to and including the entry of judgment, three dollars.

For issuing a writ of attachment, to include all affidavits, taking and approving bond, and all oaths and certificates necessary thereto, three dollars.

For all services and proceedings in a criminal action or proceeding whether on examination or trial, three dollars; provided, that if the defendant plead guilty, only two dollars shall be allowed.

For taking bail, after commitment by another magistrate, only fifty cents.

For making transcript of docket, making up and transmitting papers on appeal, including the certificate to the same, two dollars.

For copies of docket or papers in his office, per folio twenty cents.

For issuing a search-warrant, to be paid by the party demanding the same, one dollar.

For celebrating a marriage, and returning the certificate to the recorder, three dollars.

For docketing a judgment or any instrument, for the first name fifty cents; for each additional name twenty-five cents.

For taking depositions, per folio, twenty cents.

For administering an oath, twenty-five cents, and certificate to same, twenty-five cents; for each certificate twenty-five cents.

For issuing a commission to take testimony, seventy-five cents.

For all services connected with the posting of estrays, including the transcript for the recorder, three dollars.

For issuing an execution and entering satisfaction of the judgment, fifty cents.

In all cases before justices of the peace where the venue shall be changed, the justice before whom the action shall be brought, for all services rendered, including the making up and transmission of the manuscript and papers, shall receive three dollars; and the justice before whom the trial shall take place, shall receive the same fees as if the action had been commenced before him.

14. Each constable shall receive the following fees: For serving all summons in civil cases, for each defendant, including the copy required by law, one dollar.

For summoning a jury of twelve or less before a justice, one dollar and fifty cents; for each additional juror above twelve, twenty-five cents.

For taking any bond required by law to be taken, fifty cents.

For summoning each witness, twenty-five cents.

For serving an attachment or levying an execution on the property of a defendant, one dollar and fifty cents.

For summoning and swearing a jury to try the rights of property, and making a verdict, two dollars.

For receiving and taking care of property on execution, order or attachment, his actual necessary expenses, to be allowed by the justice who issued the order, attachment or execution upon the affidavit of the constable that the charges are correct and that the expenses were necessarily incurred.

For collecting all sums on execution, three per cent, to be charged against the defendant named in the execution.

For serving a warrant or order for the delivery of personal property, or making an arrest in a civil case, one dollar and fifty cents.

For making each arrest in criminal cases, two dollars.

For every mile necessarily traveled, in going only, to serve any civil or criminal process or paper, or to take a prisoner before a magistrate or to prison, twenty-five cents; but when two or more persons are served or summoned in the same suit and at the same time, mileage shall be charged only for the most distant, if they live in the same direction.

For sales of estrays, the same fees as for sales on execution.

For the transportation of prisoners to the county jail the actual necessary expenses.

For attending a justice's court and taking charge of a jury and prisoner when required two dollars for each day of actual attendance upon the court.

For all other services the same fees as are allowed sheriffs for like services.

15. Each member of the board of supervisors four hundred dollars per annum and twenty cents per mile for traveling from his residence to the county seat, also his actual necessary expenses while acting as ex officio road overseer or commissioner not to exceed three hundred dollars in any one year. [Amendment approved March 20, 1905. Stats. 1905, p. 544. In effect January 1, 1907.]

§ 198. In counties of the forty-first class the county officers shall receive, as compensation for the services required of them by law or by virtue of their offices, the following salaries, to wit:

1. The county clerk, three thousand dollars per annum.
2. The sheriff, four thousand dollars per annum, and actual traveling expenses incurred in the pursuit or arrest of criminals, either in or out of his county.
3. The recorder, one thousand five hundred dollars per annum.
4. The auditor, one thousand dollars per annum.
5. The treasurer, one thousand five hundred dollars per annum.
6. The tax collector, one thousand dollars per annum, which shall be in full for all services as tax collector and as license collector.
7. The assessor, two thousand five hundred dollars per annum.
8. The district attorney, two thousand dollars per annum.
9. The coroner, such fees as are now or may be hereafter allowed by law.
10. The public administrator, such fees as are now or may be hereafter allowed by law.
11. The superintendent of schools, one thousand two hundred dollars per annum, and actual traveling expenses when visiting the schools of his county.
12. The surveyor, such fees as are now or may be hereafter allowed by law.
13. In counties of this class the township officers shall receive the following compensation, to wit:

In townships having a population of three thousand or more, justices of the peace and constables shall each receive a monthly salary of sixty dollars per month.

In townships having a population of fifteen hundred and less than three thousand, the justices of the peace and constables shall each receive a monthly salary of forty-five dollars per month.

In townships having a population of eight hundred and less than fifteen hundred, the justices of the peace and constables shall each receive a monthly salary of thirty-five dollars per month.

In townships having a population of five hundred and less than eight hundred, the justices of the peace and constables shall each receive a monthly salary of fifteen dollars per month.

In townships having a population of less than five hundred, the justices of the peace and constables shall each receive a monthly salary of five dollars per month.

The above named salaries shall be in full compensation for all services of said justices of the peace and constables in criminal cases; provided, that in addition to the salary herein allowed, each constable shall be paid out of the treasury of the county for traveling expenses outside of his township, for service of a warrant of arrest or any other paper in a criminal case, such fees as they are now or may be hereafter allowed by law, for transporting prisoners to the county jail, the actual expenses of such transportation; and, provided further, that for the purpose of this act, the population of the several townships, shall be ascertained by multiplying the number of registered voters at the last general election by five. But said justices of the peace and constables may retain for their own use, the fees allowed by law in civil cases.
14. Each member of the board of supervisors, five hundred dollars per annum, and his necessary expenses when attending to the business of the

county other than the meetings of the board, and twenty cents per mile in going from his residence to the county seat at each meeting of the board; and when serving as road commissioner, three dollars per day, and twenty cents per mile one way for all actual distances traveled by him in the performance of his duties as such commissioner.

Subdivision thirteen of this section shall take effect immediately. [Amendment approved March 20, 1905. Stats. 1905, p. 441. In effect in part immediately, and in part in sixty days.]

§ 199. In counties of the forty-second class the county officers shall receive, as compensation for the services required of them by law or by virtue of their offices, the following salaries, to wit:

1. The county clerk, two thousand four hundred dollars per annum.
2. The sheriff, four thousand dollars per annum, and the fees or commissions for the service of all papers issued by any court of the state outside of his county. Also his actual traveling expenses in the execution of a warrant outside of his county issued by a magistrate or court of his county.
3. The recorder, eighteen hundred dollars per annum.
4. The auditor, one thousand eight hundred dollars per annum.
5. The treasurer, one thousand six hundred dollars per annum.
6. The tax collector, one thousand two hundred dollars per annum.
7. The assessor, three thousand dollars per annum.
8. The district attorney, two thousand dollars per annum.
9. The coroner, such fees as are now or may be hereafter allowed by law.
10. The public administrator, such fees as are now or may be hereafter allowed by law.
11. The superintendent of schools, one thousand six hundred dollars per annum, and actual traveling expenses when visiting the schools of his county.
12. The surveyor, fifteen hundred dollars per annum, which shall be in full for all services required of him by the superior court or the board of supervisors, and as ex officio county recorder; provided, that he shall be entitled to receive from the county his actual and necessary traveling expenses, incurred in the performance of any order of the court or board of supervisors; for all other services the fees allowed by law.
13. Justices of the peace shall receive the following monthly salaries, to be paid each month, and in the same manner and out of the same fund as county officers are paid, which shall be in full for all services rendered by them in criminal cases: In townships having a population of more than nine hundred, seventy-five dollars per month; in townships having a population of less than nine hundred and more than five hundred, fifty dollars per month; in townships having a population of less than five hundred, thirty dollars per month. In addition to the compensation received in criminal cases each justice of the peace shall receive and retain for his own use such fees as are now or may hereafter be allowed by law for all services performed by him in civil actions.
14. Constables shall receive the following monthly salaries, to be paid each month, and in the same manner and out of the same fund as county officers are paid, which shall be in full for all services rendered by them

in criminal cases: In townships having a population of more than nine hundred, seventy-five dollars per month; in townships having a population of less than nine hundred and more than five hundred, fifty dollars per month; in townships having a population of less than five hundred, thirty dollars per month; provided, that each constable shall receive his actual and necessary expenses incurred in conveying prisoners to the county jail. In addition to the compensation received in criminal cases each constable shall receive and retain for his own use such fees as are now or may hereafter be allowed by law for all services performed by him in civil actions.

15. Each supervisor, one hundred dollars per month, and mileage at the rate of twenty cents per mile for traveling from residence to county seat to attend upon a session of the board. The salary herein allowed shall be in full for all services, including duties as road commissioner.

16. The official reporter, such fees as are now provided by law.

17. This act, and the amendments contained in the foregoing section relating to counties of the forty-second class, shall take effect immediately as to the compensation of justices of the peace, constables, and supervisors. [Amendment approved March 23, 1901. Stats. 1901, p. 779. In effect partly immediately and partly 12 M. on the first Monday after January 1, 1903.]

§ 200. In counties of the forty-third class, the county officers shall receive, as compensation for the services required of them by law or by virtue of their office, the following salaries, to wit:

1. The county clerk, one thousand eight hundred dollars per annum.

2. The sheriff, three thousand five hundred dollars per annum. The sheriff shall also receive for his own use and benefit all fees, commissions and mileage, in all civil cases within his county, and all fees, commissions and mileage for service of any papers issued by any court outside of his county.

3. The recorder, twelve hundred dollars per annum.

4. The auditor, six hundred dollars per annum.

5. The treasurer, one thousand two hundred dollars per annum.

6. The tax collector, seven hundred dollars per annum.

7. The assessor, twenty-four hundred dollars per annum.

8. The district attorney, one thousand five hundred dollars per annum.

9. The coroner, such fees as are now or may hereafter be allowed by law.

10. The public administrator, such fees as now or may hereafter be allowed by law.

11. The superintendent of schools, one thousand six hundred dollars per annum.

12. The surveyor, such fees as are now or may hereafter be allowed by law.

13. Justices of the peace shall receive the following monthly salaries, to be paid each month, and in the same manner and out of the same fund as county officers are paid, which shall be in full for all services rendered by them in criminal cases: In townships having a population of more than twenty-five hundred, seventy dollars per month; in townships having a

population of less than twenty-five hundred and more than one thousand, twenty dollars per month; in townships having a population of less than one thousand and more than six hundred, fifteen dollars per month; in townships having a population of less than six hundred, ten dollars per month. In addition to the compensation received in criminal cases, each justice of the peace shall receive and retain for his own use such fees as are now or may hereafter be allowed by law for all services performed by him in civil actions.

14. Constables shall receive the following monthly salaries to be paid each month, and in the same manner and out of the same fund as county officers are paid, which shall be in full for all services rendered by them in criminal cases: In townships having a population of more than twenty-five hundred, thirty-five dollars per month; in townships having a population of less than twenty-five hundred and more than one thousand, fifteen dollars per month; in townships having a population of less than one thousand, ten dollars per month; provided, that each constable shall receive his actual and necessary expenses incurred in conveying prisoners to the county jail. In addition to the compensation received in criminal cases, each constable shall receive and retain for his own use such fees as are now or may hereafter be allowed by law for all services performed by him in civil actions.

15. Each supervisor, six hundred dollars per annum, and twenty cents per mile for traveling from his residence to the county seat.

16. Each member of the county board of education, including the secretary, shall receive one hundred and fifty dollars per annum as compensation for his services on the board of education, and mileage at the rate of twenty cents per mile, one way, from his residence to the place of meeting of said board. Said compensation of said members and of said secretary shall be paid monthly in the same manner and out of the same fund as the salaries of other county officers are paid. Claims for such mileage shall be presented to and allowed by the board of supervisors before payment. The compensation of the members of the county board of education herein provided is not in addition to that provided in section seventeen hundred and seventy of the Political Code.

17. For the purposes of sub-divisions thirteen and fourteen of this section, the population of the several judicial townships shall be ascertained by the board of supervisors, by multiplying by five the vote for presidential electors cast in each township at the next preceding election. [Amendment approved March 20, 1905. Stats. 1905, p. 363. In effect in sixty days.]

§ 201. In counties of the forty-fourth class, the county officers shall receive, as compensation for the services required by them by law or by virtue of their offices, the following salaries to wit:

1. The county clerk, eighteen hundred dollars per annum.
2. The sheriff, forty-two hundred dollars per annum, and such mileage as is allowed by law, and the fees, mileage, or commissions for the service of all papers whatever issued by any court outside of his county, and all mileage for the service of papers in civil cases in his own county, and

the actual expenses incurred in criminal cases, and fifteen cents for each meal for feeding prisoners confined in the county jail.

3. The recorder, one thousand five hundred dollars per annum; provided, that such recorder shall collect and pay into the county treasury, for the use and benefit of the county, the fees required by law to be so collected; and provided, that when the amount of said fees collected shall amount to more than one hundred and twenty-five dollars in any month, the recorder may receive and retain for his own use, in addition to his salary, all fees in excess of one hundred and twenty-five dollars, and not exceeding one hundred and seventy-five dollars, in any month so collected; so that the amount of fees thus received by the recorder for his own use, plus the salary, shall not exceed the sum of one hundred and seventy-five dollars in any one month.

4. The auditor, fifteen hundred dollars per annum.

5. The treasurer, fifteen hundred dollars per annum.

6. The tax collector, twelve hundred dollars per annum.

7. The assessor, twenty-five hundred dollars per annum.

8. The district attorney, eighteen hundred dollars per annum.

9. The coroner, such fees as are now or may be hereafter allowed by law.

10. The public administrator, such fees as are now or may be hereafter allowed by law.

11. The superintendent of schools, ten hundred dollars per annum.

12. The surveyor, ten dollars per day when engaged in county work. He shall also receive his actual expenses when at work in the field.

13. Justices of the peace, such fees as are now or may be hereafter allowed by law.

14. Constables, such fees as are now or may be hereafter allowed by law.

15. Each member of the board of supervisors, six hundred dollars per annum, and twenty-five cents per mile while traveling from their respective residence to the county seat, not more than once each month.

16. In counties of this class the official reporter of the superior court shall receive such fees as are now and may hereafter be allowed by law.

17. In counties of this class the board of supervisors may appoint a horticultural commissioner, who shall have expert knowledge of the duties pertaining to the position, who shall serve at the pleasure of the board, and who shall be paid a salary of not to exceed seventy-five dollars per month. [Amendment approved March 20, 1905. Stats. 1905, p. 356. In effect sixty days.]

§ 202. In counties of the forty-fifth class the county officers shall receive, as compensation for the services required of them by law or by virtue of their office, the following salaries, to wit:

1. The county clerk, thirteen hundred dollars per annum.

2. The sheriff, twenty-four hundred dollars per annum, and the fees or commissions for the service of all papers issued by any court of the state outside of his county, and his actual and necessary traveling expenses while executing a warrant outside of his county issued by a magistrate or court within his county.

3. The recorder, thirteen hundred dollars per annum.
4. The auditor, seven hundred dollars per annum.
5. The treasurer, one thousand dollars per annum.
6. The tax collector, five hundred dollars per annum.
7. The assessor, fifteen hundred dollars per annum.
8. The district attorney, one thousand dollars per annum.
9. The coroner, such fees as are now or may be hereafter allowed by law.
10. The public administrator, such fees as are now or may be hereafter allowed by law.
11. The superintendent of schools, eight hundred dollars per annum, and actual and necessary traveling expenses when visiting schools of his county.
12. The surveyor, such fees as are now or may be hereafter allowed by law.
13. Justices of the peace, such fees as are now or may be hereafter allowed by law.
14. Constables, such fees as are now or may be hereafter allowed by law.
15. Each member of the board of supervisors, four dollars a day when the board is in session, and ten cents a mile, in going only, for traveling from his residence to the county seat, and when serving as road commissioner three dollars per day, and actual and necessary expenses; provided, he shall not in any one year receive more than three hundred dollars as supervisor, exclusive of mileage, nor more than two hundred dollars as road commissioner, exclusive of traveling expenses.
16. Each member of the board of education shall receive five dollars per day as compensation for his services when in actual attendance upon said board, and mileage at the rate of ten cents per mile, one way only, from his residence to the place of meeting of said board. The secretary of said board of education shall receive five dollars per day for his services for the actual time that the board may be in session. Said compensation of the members of said board and of said secretary shall be paid out of the same fund as the salary of the superintendent of schools. Claims of such service and mileage shall be presented to the board of supervisors and shall be allowed at the rate above named, and in the same manner as other claims against the county are allowed. The compensation of the members of the county board of education herein provided is not in addition to that provided in section seventeen hundred and seventy of the Political Code. [Amendment approved March 23, 1901. Stats. 1901, p. 782. In effect 12 M. on first Monday after January 1, 1903.]

§ 203. In counties of the forty-sixth class the county officers shall receive, as compensation for the services required of them by law or by virtue of their offices, the following salaries, to wit:

1. The county clerk, fifteen hundred dollars per annum.

2. The sheriff, thirty-five hundred dollars per annum, and actual traveling expenses incurred in the pursuit or arrest of criminals, either in or out of his county.

3. The recorder, one thousand dollars per annum.

4. The auditor, five hundred dollars per annum.

5. The treasurer, one thousand dollars per annum.

6. The tax collector, five hundred dollars per annum, which shall be in full for all services as tax collector and as license collector.

7. The assessor, eighteen hundred dollars per annum.

8. The district attorney, fifteen hundred dollars per annum.

9. The coroner, such fees as are now or may be hereafter allowed by law.

10. The public administrator, such fees as are now or may be hereafter allowed by law.

11. The superintendent of schools, twelve hundred dollars per annum, and actual traveling expenses when visiting the schools of his county.

12. The surveyor, such fees as are now or may be hereafter allowed by law.

13. Justices of the peace, the fees which are now or hereafter may be allowed by law; provided, that where the trial of any case shall occupy more than one day, and not less than three hours of such day, the justice shall also be allowed three dollars for each additional day consumed in such trial.

14. Constables, the fees which now are or hereafter may be allowed by law; provided, that the constable shall also be allowed at the rate of two dollars and fifty cents per day for each day of actual attendance on the trial of cases in the justice's court, where such attendance is pursuant to the order of the justice thereof.

15. Each member of the board of supervisors, five dollars per day when the board is in session, and twenty cents per mile for traveling from his residence to the county seat; and when serving as road commissioner three dollars per day and mileage at the rate of twenty cents per mile one way for all actual distances traveled by him in the performance of his duties as such road commissioner. But he shall not in any one year receive more than three hundred and fifty dollars as supervisor or more than two hundred and fifty dollars as road commissioner, exclusive of mileage. When traveling by order of the board upon county business, each supervisor shall be allowed his actual itemized expenses. [Amendment approved March 20, 1905. Stats. 1905, p. 552. In effect in sixty days.]

§ 204. In counties of the forty-seventh class the county officers shall receive, as compensation for the services required of them by law or by virtue of their offices, the following salaries, to wit:

1. The county clerk, twenty-seven hundred dollars per annum.

2. The sheriff, three thousand dollars per annum, and the fees or commissions for the service of all papers issued by any court of the state outside of his county; also, his actual and necessary traveling

expenses in the execution of a warrant outside of his county issued by a court or magistrate of his county.

3. The recorder, fifteen hundred dollars per annum.
4. The auditor, twelve hundred dollars per annum.
5. The treasurer, twelve hundred dollars per annum.
6. The tax collector, one thousand dollars per annum.
7. The assessor, twenty-five hundred dollars per annum.
8. The district attorney, sixteen hundred dollars per annum.
9. The coroner, such fees as are now or may be hereafter allowed by law.
10. The public administrator, such fees as are now or may be hereafter allowed by law.
11. The superintendent of schools, sixteen hundred dollars per annum, and traveling expenses while visiting schools of his county.
12. The surveyor, such fees as are now or may be hereafter allowed by law.

13. Justices of the peace shall receive the following monthly salaries, to be paid each month, and in the same manner and out of the same fund as county officers are paid, which shall be in full for all services rendered by them in criminal cases: In townships having a population of more than nine hundred, seventy-five dollars per month; in townships having a population of less than nine hundred and more than five hundred, fifty dollars per month; in townships having a population of less than five hundred, twenty dollars per month. In addition to the compensation received in criminal cases, each justice of the peace shall receive and retain for his own use such fees as are now or may be hereafter allowed by law for all services performed by him in civil actions.

14. Constables shall receive the following monthly salaries, to be paid each month, and in the same manner and out of the same fund as county officers are paid, which shall be in full for all services rendered by them in criminal cases: In townships having a population of more than nine hundred, seventy-five dollars per month; in townships having a population of less than nine hundred and more than five hundred, fifty dollars per month; in townships having a population of less than five hundred, twenty dollars per month; provided, that each constable shall receive his actual and necessary expenses incurred in conveying prisoners to the county jail. In addition to the compensation received in criminal cases, each constable shall receive and retain for his own use such fees as are now or may hereafter be allowed by law for all services performed by him in civil actions.

15. Each supervisor, five dollars per day while attending sessions of the board and while engaged in the performance of the duties of road commissioner, and mileage at the rate of twenty cents per mile for traveling from residence to county seat in attendance upon a regular session of the board.

16. Official reporters, same as now provided by law.

This act, so far as it relates to counties of the forty-seventh class, shall take effect immediately as to the offices of justices of the peace

and constables, but shall not affect the compensation of other officers during the present term of office. [Amendment approved March 23, 1901. Stats. 1901, p. 784. In effect partly immediately and partly 12 M. on first Monday after January 1, 1903.]

§ 205. The county officers shall receive as compensation for the services required of them by law or by virtue of their office, the following salaries, to wit:

1. The county clerk, one thousand five hundred dollars per annum.
2. The sheriff, twenty-five hundred dollars per annum.
3. The recorder, one thousand dollars per annum; provided, that in counties of this class there shall be and is hereby allowed to the recorder a copyist, who shall be appointed by the recorder, and paid the salary of fifty dollars per month; said salary to be paid by said county in monthly installments, at the time and in the same manner, and out of the same fund as the salary of the recorder is paid. This section shall take effect immediately in so far as it relates to the salary of said copyist.
4. The auditor, six hundred dollars per annum.
5. The treasurer, one thousand dollars per annum.
6. The tax collector, one thousand dollars per annum, and ten per cent on all licenses collected by him as license collector.
7. The assessor, one thousand five hundred dollars per annum; provided, that in counties of this class there shall be and is hereby allowed to the assessor one deputy, to be appointed by him, who shall receive the salary of seventy-five dollars per month for not exceeding four months in any calendar year, said salary to be paid by said county in monthly installments, at the same time and in the same manner, and out of the same fund as the salary of the assessor is paid. This section shall take effect immediately in so far as it relates to the salary of said deputy.
8. The district attorney, one thousand two hundred dollars per annum.
9. The coroner, such fees as are now or may hereafter be allowed by law.
10. The public administrator, such fees as are now or may hereafter be allowed by law.
11. The superintendent of schools, fifteen hundred dollars per annum, and actual traveling expenses when visiting the schools of this county.
12. The surveyor, such fees as are now or may hereafter be allowed by law.
13. Justices of the peace, such fees as are now or may hereafter be allowed by law.
14. Constables, such fees as are now or may hereafter be allowed by law.
15. Each supervisor, six dollars per day when the board is in a session, not to exceed three hundred dollars per year, exclusive of mileage, and twenty-five cents per mile for traveling one way only from his residence to the county seat at each sitting of the board; and his necessary expenses while supervising the roads of his district, or attending

to the business of the county, other than the meetings of the board, not to exceed the sum of four hundred and sixty dollars per annum. This section shall take effect immediately in so far as it relates to the necessary expenses of supervisors while supervising their roads, or while engaged in attending to the business of the county other than the meetings of the board.

16. In counties of this class, the official reporter of the superior court shall receive, as full compensation for taking notes in civil and criminal cases tried in said court, and for preliminary examinations in justices' courts, and at coroner's inquests, a per diem of ten dollars, and for transcription of said notes when required during the progress of a trial, he shall receive the sum of twenty-five cents per folio for the original and five cents per folio for one copy; but if such transcription is not required until after the conclusion of trial, then he shall receive the sum of ten cents per folio for original, and five cents per folio for copies required; said compensation for transcription in criminal cases to be audited and allowed by the board of supervisors as other claims against the county, and paid out of the county treasury; and in civil cases, to be paid by the party ordering the same, or when ordered by the judge, by either party, or jointly by both parties, as the court may direct. He shall also be allowed his actual traveling expenses when reporting outside the county seat. [Amendment approved March 20, 1905. Stats. 1905, p. 333. In effect in part immediately and in part in sixty days.]

§ 206. In counties of the forty-ninth class, the county officers shall receive as compensation for their services required of them by law, or by virtue of their offices, the following salaries, to wit:

1. The county clerk, twelve hundred dollars per annum, except in the years where a general election is held, and in such years he shall receive fifteen hundred dollars per annum.

2. The sheriff, thirty-eight hundred dollars per annum.

3. The recorder, twelve hundred dollars per annum, provided that such recorder shall collect and pay into the county treasury for the use and benefit of the county, the fees required by law to be so collected; and, provided, that when the amount of said fees collected shall exceed one hundred dollars in any month, the recorder may receive and retain for his own use, in addition to his salary, one half of all fees in excess of one hundred dollars in any month, so collected; and, provided, that the recorder may retain for his own use, all fees collected for filing or recording proofs of labor or notices of location of mining claims.

4. The auditor six hundred dollars per annum.

5. The treasurer, twelve hundred dollars per annum.

6. The tax collector, one thousand dollars per annum and ten per cent on all licenses collected by him.

7. The assessor, one thousand six hundred and fifty dollars per annum.

8. The district attorney, one thousand four hundred dollars per annum.

9. The coroner, such fees as are now or may be hereafter allowed by law.

10. The public administrator, such fees as are now or may be hereafter allowed by law.

11. The superintendent of schools, six hundred dollars per annum and actual traveling expenses while visiting the schools of the county.

12. The surveyor, such fees as are now or may be hereafter allowed by law.

13. Justices of the peace, such fees as are now or may be hereafter allowed by law.

14. Constables, such fees as are now or may be hereafter allowed by law.

15. Each member of the board of supervisors five dollars per day for each day's actual service while the board is in session and ten cents per mile for each mile necessarily traveled to and from the place of meeting; also three dollars per day for each day's service while serving as road commissioner. Such compensation, as road commissioner, not to exceed three hundred dollars per annum.

16. Grand jurors and jurors in the superior court in criminal cases shall be paid three dollars per day for each day's attendance and for each mile actually traveled in going only, while acting as such juror, fifteen cents; and the judge of said court shall make an order directing the auditor to draw his warrant on the treasurer in favor of such juror for said per diem and mileage, and the treasurer shall pay the same.

The provisions of section two hundred and six of this act, so far as the same relates to fees of jurors, shall take effect on August 1, 1901.

This act shall take effect and be in force from and after its passage. [Amendment approved March 20, 1905. Stats. 1905, p. 373. In effect partly at once, and in part August 1, 1901.]

§ 207. In counties of the fiftieth class, the county officers shall receive as compensation for the services required of them by law or by virtue of their office, the following salaries, to wit:

1. The county clerk, two thousand dollars per annum, except in the years when a general election is held, and in such years, he shall receive two thousand three hundred dollars per annum.

2. The sheriff four thousand dollars per annum.

3. The recorder one thousand eight hundred dollars per annum.

4. The auditor four hundred dollars per annum.

5. The treasurer, one thousand six hundred dollars per annum.

6. The tax collector seven hundred fifty dollars per annum.

7. The assessor one thousand eight hundred dollars per annum.

8. The district attorney one thousand five hundred dollars per annum.

9. The coroner, such fees as are now or may hereafter be allowed by law.

10. The public administrator, such fees as are now or may hereafter be allowed by law.

11. The superintendent of schools eight hundred dollars per annum, and actual traveling expenses when visiting the schools of the county.

12. The surveyor such fees as are now or may hereafter be allowed by law.

13. Justices of the peace, such fees as are now or may hereafter be allowed by law.

14. Constables such fees as are now or may hereafter be allowed by law.

15. Each supervisor eight dollars per day while the board is in session, and mileage from residence to the county seat at each sitting of the board of twenty cents per mile; also twenty cents per mile for each mile actually and necessarily traveled in discharging the duties of road commissioner, but he shall not in any one year receive more than three hundred dollars for per diem as supervisor, and he shall not in any one year receive more than three hundred dollars as road commissioner.

16. The license collector ten per cent of all licenses collected by him.

This act so far as it relates to counties of this class, shall not affect the compensation of officers during the present [term] of office, except as herein otherwise specially provided. [Amendment approved March 20, 1905. Stats. 1905, p. 325. In effect in sixty days.]

§ 208. In counties of the fifty-first class the county officers shall receive, as compensation for the services required of them by law or by virtue of their office, the following salaries, to wit:

1. The county clerk, one thousand five hundred dollars per annum.

2. The sheriff, three thousand dollars per annum.

3. The recorder, one thousand dollars per annum; provided, that in counties of this class there shall be and is hereby allowed to the recorder a copyist, who shall be appointed by the recorder, and paid the salary of fifty dollars per month; said salary to be paid by said county in monthly installments, at the time and in the same manner, and out of the same fund as the salary of the recorder is paid. This section shall take effect immediately in so far as it relates to the salary of said copyist.

4. The auditor, five hundred dollars per annum.

5. The treasurer, one thousand dollars per annum.

6. The tax collector, five hundred dollars per annum, and ten per cent on all licenses collected by him as license collector.

7. The assessor, one thousand five hundred dollars per annum; provided, that in counties of this class there shall be and is hereby allowed to the assessor one deputy, to be appointed by him, who shall receive the salary of seventy-five dollars per month for not exceeding four months in any calendar year, said salary to be paid by said county in monthly installments, at the same time and in the same manner, and out of the same fund as the salary of the assessor is paid. This section shall take effect immediately in so far as it relates to the salary of said deputy.

8. The district attorney, one thousand two hundred dollars per annum.

9. The coroner, such fees as are now or may hereafter be allowed by law.

10. The public administrator, such fees as are now or may hereafter be allowed by law.

11. The superintendent of schools, fifteen hundred dollars (\$1500) per annum, and actual traveling expenses when visiting the schools of this county.

12. The surveyor, such fees as are now or may hereafter be allowed by law.

13. Justices of the peace, such fees as are now or may hereafter be allowed by law.

14. Constables, such fees as are now or may hereafter be allowed by law.

15. Each supervisor, six dollars per day when the board is in a session, not to exceed three hundred dollars per year, exclusive of mileage, and twenty-five cents per mile for traveling one way only from his residence to the county seat at each sitting of the board; and his necessary expenses while supervising the roads of his district, or attending to the business of the county, other than the meetings of the board, not to exceed the sum of four hundred and sixty dollars per annum. This section shall take effect immediately in so far as it relates to the necessary expenses of supervisors while supervising their roads, or while engaged in attending to the business of the county other than the meetings of the board.

16. In counties of this class, the official reporter of the superior court shall receive, as full compensation for taking notes in civil and criminal cases tried in said court, and for preliminary examinations in justices courts, and at coroners inquests, a per diem of ten dollars, and for transcription of said notes when required during the progress of a trial, he shall receive the sum of twenty-five cents per folio for the original and five cents per folio for one copy; but if such transcription is not required until after conclusion of trial, then he shall receive the sum of ten cents per folio for original, and five cents per folio for copies required; said compensation for transcription in criminal cases to be audited and allowed by the board of supervisors as other claims against the county, and paid out of the county treasury; and in civil cases to be paid by the party ordering the same, or when ordered by the judge, by either party, or jointly by both parties, as the court may direct. He shall also be allowed his actual traveling expenses when reporting outside the county seat. [Amendment approved March 20, 1905. Stats. 1905, p. 320. In effect in part immediately and in part, in sixty days.]

§ 209. In counties of the fifty-second class the county officers shall receive, as compensation for the services required of them by law or by virtue of their office, the following salaries, to wit:

1. The county clerk, fifteen hundred dollars per annum.
2. The sheriff, three thousand dollars per annum.
3. The recorder, eight hundred dollars per annum.
4. The auditor, six hundred dollars per annum.
5. The treasurer, one thousand dollars per annum.
6. The tax collector, one thousand dollars per annum.
7. The assessor, fifteen hundred dollars per annum.

8. The district attorney, one thousand dollars per annum.
9. The coroner, such fees as are now or may be hereafter allowed by law.
10. The public administrator, such fees as are now or may be hereafter allowed by law.
11. The superintendent of schools, seven hundred dollars per annum.
12. The surveyor, such fees as are now or may be hereafter allowed by law.
13. Justices of the peace, such fees as are now or may be hereafter allowed by law.
14. Constables, such fees as are now or may be hereafter allowed by law.
15. Each member of the board of supervisors, two hundred and fifty dollars per annum; mileage from residence to county seat at each sitting of the board, twenty cents per mile. [Amendment approved March 23, 1901. Stats. 1901, p. 790. In effect 12 M. on first Monday after January 1, 1903.]

§ 210. In counties of the fifty-third class the county officers shall receive, as compensation for the services required by them by law or by virtue of their offices, the following salaries, to wit:

1. The county clerk, sixteen hundred dollars per annum.
2. The sheriff, five thousand per annum and mileage for service of any and all processes required by law to be served by him, at the rate of ten cents per mile for every mile necessarily traveled in the performance of such duty, and for service of all processes issued from all courts outside of his county.
3. The recorder, eight hundred dollars per annum.
4. The auditor, two hundred dollars per annum.
5. The treasurer, one thousand dollars per annum.
6. The tax collector, one thousand dollars per annum.
7. The assessor, fifteen hundred dollars per annum.
8. The district attorney, nine hundred dollars per annum.
9. The coroner, such fees as are now or may be hereafter allowed by law.
10. The public administrator, such fees as are now or may be hereafter allowed by law.
11. The superintendent of schools, four hundred dollars per annum.
12. The surveyor, such fees as are now or may be hereafter allowed by law.
13. Justices of the peace shall receive the following monthly salaries, to be paid each month as salaries of county officers are paid, which shall be in full compensation for all services rendered, as hereinafter provided. In townships having a population of three thousand or more, eighty-five dollars per month, which said salary shall be in full compensation for all services rendered by said justices of the peace in both civil and criminal cases, and all such fees as are allowed by law in civil cases shall be paid by said justices of the peace into the county treasury, as the fees of county officers are paid in. In townships hav-

ing a population of not less than two thousand and under three thousand, thirty dollars per month, which shall be in full compensation for all services rendered in criminal cases. In addition to the above salary, each justice of the peace shall collect and retain for his own use and benefit in civil cases, such fees as are now or may be hereafter allowed by law. In townships having a population of not less than one thousand and under two thousand, twenty dollars per month, which shall be in full compensation for all services rendered in criminal cases. In addition to the above salary, each justice of the peace shall collect and retain for his own use and benefit in civil cases, such fees as are now or may be hereafter allowed by law. In townships having a population of less than one thousand, fifteen dollars per month, which shall be in full compensation for all services rendered in criminal cases. In addition to the above salary each justice of the peace shall collect and retain for his own use and benefit in civil cases, such fees as are or may be hereafter allowed by law. The board of supervisors shall determine the population of each township for the purpose of fixing the salary of the township officers, aforesaid.

14. Constables, such fees as are now or may be hereafter allowed by law.

15. Each member of the board of supervisors, six dollars per day when board is in session; thirty cents per mile, one way. Three dollars per day when actually serving as road commissioner, not to exceed three hundred dollars.

16. In counties of this class the official reporter of the superior court shall receive, as full compensation for taking notes in civil and criminal cases tried in said court, and for preliminary examinations in justices' courts, a salary of ten dollars per diem during employment, payable out of the county treasury, at the same time and in the same manner as the salaries of county officers, and for transcription of said notes, when required, he shall receive the sum of ten cents per folio for the original and five cents per folio for a copy; said compensation by transcription in criminal cases to be audited and allowed by the board of supervisors as other claims against the county, and paid out of the county treasury, and in civil cases to be paid by the party ordering the same, or, when ordered by the judge, by either party, or jointly by both parties, as the court may direct. [Amendment approved March 20, 1905. Stats. 1905, p. 439. In effect in sixty days.]

§ 211. In counties of the fifty-fourth class, the county officers shall receive, as compensation for the services required of them by law or by virtue of their office, the following salaries, to wit:

1. The county clerk, one thousand three hundred dollars per annum; provided, that in years when a great register is ordered the county clerk shall receive in addition to his regular salary the sum of four hundred dollars for such services.

2. The sheriff, two thousand five hundred dollars per annum, and twenty-five cents mileage, in going only.

3. The recorder, four hundred dollars per annum; provided, that the recorder may retain to his own use all fees paid him for recording

notices of location of mining claims and affidavits of annual expenditures upon mining claims, made under the laws of Congress; and further provided, that all acts of the recorder of counties of this class in retaining to his own use any fees for recording notices of location of mining claims and affidavits of annual expenditures upon mining claims, made under the laws of Congress, whether done as mining recorder or as recorder, are hereby validated and declared legal, and that such recorder may continue to retain to his own use such fees, and this act in so far as it relates to the matter enumerated in the last preceding division thereof shall take effect immediately upon its passage.

4. The auditor, three hundred dollars per annum.
5. The treasurer, one thousand dollars per annum.
6. The tax collector, three hundred and fifty dollars per annum.
7. The assessor, one thousand six hundred dollars per annum.
8. The district attorney, one thousand dollars per annum, and his necessary traveling expenses, to be allowed by the board of supervisors.
9. The coroner, such fees as are now or may be hereafter allowed by law.
10. The public administrator, such fees as are now or may be hereafter allowed by law.
11. The superintendent of schools, six hundred and twenty-five dollars per annum, and actual traveling expenses when visiting the schools of his county.
12. The surveyor, such fees as are now or may be hereafter allowed by law.
13. Justices of the peace, such fees as are now or may be hereafter allowed by law.
14. Constables, such fees as are now or may be hereafter allowed by law.
15. Each supervisor, three hundred and fifty dollars per annum, and twenty cents per mile for traveling to and from his residence to the county seat at each session.

When traveling by order of the board upon county business, each supervisor shall be allowed his actual itemized expenses. For all services as road commissioner, each supervisor shall receive three dollars per day, but he shall not in any one year receive more than five hundred dollars as supervisor.

16. The license collector, such compensation as the board of supervisors shall fix. [Amendment approved March 20, 1905. Stats. 1905, p. 523. In effect in part immediately and in part in sixty days.]

§ 212. In counties of the fifty-fifth class, the county officers shall receive, as compensation for the services required of them by law or by virtue of their offices, the following salaries, to wit:

1. The county clerk, nine hundred dollars per annum.
2. The sheriff, twelve hundred dollars per annum.
3. The recorder, six hundred dollars per annum.
4. The auditor, three hundred dollars per annum.
5. The treasurer, nine hundred dollars per annum.

6. The tax collector, nine hundred dollars per annum.
7. The assessor, six hundred dollars per annum.
8. The district attorney, nine hundred dollars per annum.
9. The coroner, such fees as are now or may be hereafter allowed by law.
10. The public administrator, such fees as are now or may be hereafter allowed by law.
11. The superintendent of schools, four hundred dollars per annum.
12. The surveyor, such fees as are now or may be hereafter allowed by law.
13. Justices of the peace, such fees as are now or may be hereafter allowed by law.
14. Constables, such fees as are now or may be hereafter allowed by law.
15. Each member of the board of supervisors, three hundred dollars per annum and twenty cents per mile in traveling from his residence to the county seat, going only; provided, that only one mileage shall be allowed for any regular session of the board.
16. In counties of this class the official reporter of the superior court shall receive, as full compensation for taking notes in civil and criminal cases tried in said court, and for preliminary examinations in justices' courts and at coroners' inquests, a monthly salary not to exceed fifty dollars, payable out of the county treasury, at the same time and in the same manner as the salaries of county officers; and for transcription of said notes, when required, he shall receive the sum of ten cents per folio for the original and five cents per folio for a copy; said compensation for transcription in criminal cases to be audited and allowed by the board of supervisors as other claims against the county, and paid out of the county treasury, and in civil cases, to be paid by the party ordering the same, or, when ordered by the judge, by either party, or jointly by both parties, as the court may direct.

§ 218. In counties of the fifty-sixth class the county officers shall receive, as compensation for the services required of them by law or by virtue of their offices, the following salaries, to wit:

1. The county clerk, twelve hundred dollars per annum.
2. The sheriff, twenty-six hundred dollars per annum.
3. The recorder, six hundred dollars per annum.
4. The auditor, two hundred dollars per annum.
5. The treasurer, one thousand dollars per annum.
6. The tax collector, five hundred dollars per annum.
7. The assessor, twelve hundred dollars per annum.
8. The district attorney, nine hundred dollars per annum.
9. The coroner, such fees as are now or may be hereafter allowed by law.
10. The public administrator, such fees as are now or may be hereafter allowed by law.
11. The superintendent of schools, four hundred dollars per annum.
12. The surveyor, such fees as are now or may be hereafter allowed by law.

13. Justices of the peace, such fees as are now or may be hereafter allowed by law.

14. Constables, such fees as are now or may be hereafter allowed by law.

15. Each member of the board of supervisors, six dollars per day during session, and thirty cents per mile one way to board meeting; three dollars per day (no mileage) as road commissioner when actually engaged in road business.

16. In counties of this class the official reporter of the superior court shall receive, as full compensation for taking notes in civil and criminal cases tried in said court, and for preliminary examinations in justices' courts, a per diem of eight dollars; and for transcription of said notes when required during the progress of the trial, he shall receive the sum of twenty cents per folio for the original and five cents per folio for one copy; but if such transcription is not required until after conclusion of trial, then he shall receive the sum of ten cents per folio for original, and three cents per folio for copies required; said compensation for transcription in criminal cases to be audited and allowed by the board of supervisors as other claims against the county, and paid out of the county treasury, and in civil cases, to be paid by the party ordering the same, or when ordered by the judge, by either party, or jointly by both parties, as the court may direct.

§ 214. In counties of the fifty-seventh class the county officers shall receive, as compensation for the services required of them by law or by virtue of their office, the following salaries, to wit:

1. The county clerk, five hundred dollars per annum.
2. The sheriff, five hundred dollars per annum.
3. The recorder, three hundred dollars per annum.
4. The auditor, two hundred dollars per annum.
5. The treasurer, three hundred dollars per annum.
6. The tax collector, three hundred dollars per annum.
7. The assessor, three hundred dollars per annum.
8. The district attorney, three hundred dollars per annum.
9. The coroner, such fees as are now or may be hereafter allowed by law.
10. The public administrator, such fees as are now or may be hereafter allowed by law.
11. The superintendent of schools, one hundred dollars per annum.
12. The surveyor, such fees as are now or may be hereafter allowed by law.
13. Justices of the peace, such fees as are now or may be hereafter allowed by law.
14. Constables, such fees as are now or may be hereafter allowed by law.
15. Each supervisor, five dollars per day when the board is in session, and twenty cents per mile for traveling from his residence to the county seat, going only, and only one mileage shall be allowed for any regular session of the board; and, when serving as road commissioner,

three dollars per day. Such per diem not to exceed the total sum of fifty dollars per annum.

Provided, however, that five per cent only shall be allowed the sheriff or tax collector as fees for collecting licenses in counties of this class.

§ 214½. Public welfare and present necessity in the counties of the classes below named, requiring that in counties of the first, second, third, and fourth classes in this state there should be an official matron of the several county jails therein, to have the powers and to discharge the duties herein specified, the office of matron of the county jail, in and for each of the counties of the classes above named, is hereby created, and the duties and powers of the matron of such several county jails shall be as follows: She shall have free access at all reasonable times to the immediate presence of all female prisoners in the county jail of which she is the matron, including the right of personal visitation and conversation with them; and, in all cases of searching the person of female prisoners in such jail, the matron exclusively shall make such search; and the matron shall by example, advice, and admonition employ her best abilities to secure and promote the health, welfare, and reformation of all such prisoners.

The term of office of such matron shall be two years from her appointment and qualification and until her successor is appointed and qualified. The sheriff of each county (of the classes above named) is hereby authorized and empowered to appoint, and to provide for the payment of the compensation of, a matron of the county jail of the county of which they are such board, and to specify the conditions, and fix the amount of the matron's official bond, to be approved by such board. The monthly compensation of such matron in the several counties of the classes above mentioned (regulated hereby in proportion to the duties to be discharged) shall be as follows, payable monthly: In counties of the first class, seventy-five dollars; in counties of the second class, fifty dollars; in counties of the third class, forty dollars; in counties of the fourth class, thirty-five dollars, and in counties of the fifth class, thirty dollars. To further the carrying into effect of the authority above conferred and in the furtherance of the discharge of the duties of the matrons of such county jails, it is hereby enacted that no officer, deputy, jailer, keeper, guard or person having charge or control of any such county jail shall refuse the duly appointed and qualified matron thereof free access at all reasonable times to the immediate presence of all female prisoners therein, including the right of visitation and conversation with them, or in such jail allow the searching of the person, in the case of a female prisoner, to be made except by the matron of such jail, or obstruct the performance by the matron of her official duties in such jail as those duties may be specified under the provisions of this act or of law. [New section approved March 23, 1901. Stats. 1901, p. 681. In effect immediately.]

§ 215. The salaries and fees provided in this act shall be in full compensation for all services of every kind and description rendered

by the officers herein named either as officers or ex officio officers, their deputies and assistants, unless in this act otherwise provided, and all deputies employed shall be paid by their principals out of the salaries hereinbefore provided, unless in this act otherwise provided; provided, and except that where an assistant district attorney has been heretofore appointed in any county, either under the provisions of subdivision thirty-six of section twenty-five, or under any other provisions of an act entitled "An act to establish a uniform system of county and township government," approved March twenty-fourth, eighteen hundred and ninety-three, and such assistant is continued by the provisions of this act, either as an assistant or deputy in such county, then such deputy or assistant shall be paid out of the funds of such county, as heretofore or herein provided; the assessor shall be entitled to receive and retain for his own use six per cent on personal property tax collected by him, as authorized by section thirty-eight hundred and twenty of the Political Code, and fifteen per cent of all amounts collected by him for poll taxes, and road poll taxes, and also five dollars per hundred names of persons returned by him as subject to military duty, as provided in section nineteen hundred and one of the Political Code, and the license collector shall be entitled to receive and retain for his own use ten per cent on all licenses collected by him, except where otherwise provided in this act; provided, however, that in counties and cities and counties of the first, second, and third class, the assessor shall receive no commission for the collection of taxes on personal property, nor shall such assessor receive any compensation for making out military roll of persons returned by him as subject to military duty as provided by section nineteen hundred and one of the Political Code; nor shall the license collector in cities and counties of the first class and counties of the second class receive any commission on licenses collected by him except the commissions on state liquor licenses; provided, that the treasurer shall receive and retain for his own use the commissions on all inheritance and transfer taxes collected by him, and provided further, that whenever the treasurer of any county shall employ a special attorney for the collection of such taxes said attorney shall be paid out of the commissions and fees allowed by law for the collection of such taxes; provided that in any county where the number of judges of the superior court shall have been increased since the first day of January, eighteen hundred and ninety-seven, or shall hereafter be increased, there must be and there hereby is allowed to the sheriff of such county, by reason of such increase, one additional deputy, to be appointed by the sheriff, at a salary not exceeding twelve hundred dollars per annum, to be paid at the same time and in the same manner as other county officers are paid; and also there must be and is hereby allowed to the county clerk of such county, one additional deputy to act as courtroom clerk, for each judge so appointed or elected, at a salary not exceeding twelve hundred dollars per annum for each of said deputies, to be paid at the same time and in the same manner as other county officers are paid. The board of supervisors shall allow to the sheriff his necessary expenses for pursuing criminals, or transacting any

criminal business, and for boarding prisoners in the county jail; provided that the board of supervisors shall fix a reasonable price at which such prisoners shall be boarded, if not otherwise provided for in this act; provided, further, that the sheriff shall be entitled to receive and retain for his own use, five dollars per diem for conveying prisoners to and from the state prisons, and for conveying persons to and from the insane asylums, or other state institutions not otherwise provided for by law; also, all expenses necessarily incurred in conveying insane persons to and from the insane asylums, and in conveying persons to and from the state prisons, or other state institutions, which per diem and expenses shall be allowed by the board of examiners, collected from the state. The court shall also allow the sheriff his necessary expenses in keeping and preserving property seized on attachment or executions, to be paid out of the fees collected in the action. The sheriff may retain for his own use the mileage for service of papers or process issued by any court of the state.

Provided further that the county treasurers of the several counties of this state, where their necessary expense incurred in the making of the state settlements provided for by section 3866, Political Code, shall exceed the maximum amount of mileage allowed them by section 3876 of the Political Code, shall be allowed out of the county treasury of their respective counties, the amount of such excess, which shall be paid as other demands against the county are paid. [Amendment approved March 21, 1905. Stats. 1905, p. 582. In effect in sixty days.]

FEEES TO BE PAID INTO THE COUNTY TREASURY.

§ 216. All salaried officers of the several counties of this state shall charge and collect for the use of their respective counties, and pay into the county treasury, on the first Monday in each month, the fees now or hereafter allowed by law in all cases, except where such fees, or a percentage thereof, is allowed such officers, and excepting also such fees as are a charge against the county.

FEE-BOOK.

§ 217. Each of the officers authorized to receive fees under the provisions of this act must keep a fee-book, open to the public inspection during office hours, in which must be entered, at once and in detail, all fees or compensation, of whatever nature, kind, or description, collected or chargeable. On the first Monday of each and every month, the officer must add up each column in his book to the first day of the month, and set down the totals. On the expiration of the term of such officer, he must deliver all fee-books kept by him to the county auditor.

STATEMENT OF FEEES.

§ 218. The fees and compensation collected and chargeable for the county in each month shall be paid to the county treasurer on the first Monday in the following month, and must be accompanied by a statement of the aggregate amount thereof, as shown by the fee-book, duly

verified by the officer making such payment. The affidavit shall be in the following form: "I, A. B., county clerk (or other officer, as the case may be), do swear that the fee-book in my office contains a true statement in detail of all fees and compensation of every kind and nature for official services rendered by me, my deputies, and assistants, for the month of —, A. D. —, and that said fee-book shows a full amount received or chargeable in said month, and since my last monthly payment; and neither myself, nor to my knowledge or belief, any of my deputies or assistants have rendered any official service, except for the county, which is not fully set out in said fee-book, and that the foregoing statement thereof is true and correct."

The treasurer shall file and preserve in his office said statements and affidavit.

SALARY FUND.

§ 219. For the purpose of paying the salaries provided for in this act, all fees directed to be paid into the county treasury shall be set apart therein as a separate fund, to be known as the salary fund, to be applied to the payment of said salaries. Should the amount received from such source be insufficient, it shall be the duty of the county treasurer from time to time to transfer to said fund from the general fund of the county such sums as may be necessary to pay said salaries as they become due.

SALARIES—HOW PAID.

§ 220. The salaries of such officers named in this act as are entitled to salaries shall be paid monthly out of the county treasury; and it shall be the duty of the auditor, on the first Monday of each and every month, to draw his warrant upon the county treasurer in favor of each of said officers for the amount of salary due him under the provisions of this act for the preceding month; except that one-half of the annual salary of the assessor shall be paid to him in equal monthly installments for the months of March, April, May, and June, and one-half in equal monthly installments for the remaining eight months of the year. The treasurer shall pay said warrants on presentation out of the salary fund of the county treasury.

STATEMENT OF FEES MUST PRECEDE WARRANT FOR SALARY.

§ 221. The auditor shall not draw his warrant for the salary of any such officer for any month until the latter shall first have presented him with the certificate of the county treasurer, showing that he has made the statement and settlement for that month required in this act.

OFFICIAL SERVICES AND FEES.

§ 222. The officers mentioned in this act are not in any case, except for the state or county, to perform any official services, unless upon the prepayment of fees prescribed for such services, except in cases on habeas corpus and for naturalization, and on such payment the officer must perform the services required. For every failure, or refusal to

perform official duty when the fees are tendered, the officer is liable on his official bond.

ACCOUNT AND RECEIPT FOR FEES.

§ 223. Every officer, upon receiving any fees for official duty or service, may be required by the person paying the same to make out, in writing, and deliver to such person a particular account of such fees, specifying for what they, respectively, accrued, and shall receipt the same; and if he refuse or neglect to do so when required, he shall be liable to the party paying the same in treble the amount so paid.

POSTER OF FEES OF JUSTICES.

§ 224. It shall be the duty of each justice of the peace to prepare, and keep posted in a conspicuous place in his office, a plain and legible statement of the fees allowed by law to justices of the peace and constables, upon pain of forfeiting, for failure so to do, fifty dollars, to be recovered, with costs, by any person, before any other justice of the peace of the county.

ILLEGAL FEES.

§ 225. The board of supervisors, upon receiving a certified copy of the record of conviction of any officer for receiving illegal fees, must declare his office vacant.

SERVICES PERFORMED BY SUCCESSOR.

§ 226. It shall be the duty of all officers in this act named to complete the business of their respective offices to the time of the expiration of their respective terms; and in case any officer at the close of his term shall leave to his successor official labor to be performed, which it was his duty to perform, he shall be liable to pay to his successor the full value for such services.

NO FEES ON HABEAS CORPUS.

§ 227. No fee or compensation of any kind must be charged or received by any officer for duties performed or services rendered in proceedings upon habeas corpus or naturalization, nor for administering or certifying the oath of office, nor fees or other compensation shall be paid for service rendered in an affidavit or application relating to the securing of a pension or the payment of a pension voucher, or any matter relating thereto, nor filing nor swearing to any claim or demand against any county in this state.

§ 228. The following are county charges:

1. Charges incurred against the county by virtue of any of the provisions of this act.

2. The traveling and other personal expenses of the district attorney, incurred in criminal cases arising in the county, and in civil actions and proceedings in which the county is interested, and all other ex-

penses necessarily incurred by him in the detection of crime and prosecution of criminal cases, and in civil actions and proceedings and all other matters in which the county is interested.

3. The expenses necessarily incurred in the support of persons charged with or convicted of crime and committed therefor to the county jail.

4. The sums required by law to be paid to the grand and trial jurors and witnesses in criminal cases.

5. The accounts of the coroner of the county for such services as are not provided to be paid otherwise.

6. All charges and accounts for services rendered by any justice of the peace in the examination or trial of persons charged with crime, not otherwise provided for and allowed by law.

7. The necessary expenses incurred in the support of the county hospitals, poorhouses, and the indigent sick and otherwise dependent poor, whose support is chargeable to the county.

8. The contingent expenses necessarily incurred for the use and benefit of the county.

9. Every other sum directed by law to be raised for any county purpose under the direction of the board of supervisors, or declared to be a county charge.

10. The fees of constables in criminal cases allowed by law.

COST OF CRIMINAL ACTIONS ON REMOVAL.

§ 229. When a criminal action is removed before trial, the cost accruing upon such removal and trial shall be a charge against the county in which the indictment or information was found.

COSTS ON REMOVAL—HOW CERTIFIED AND PAID.

§ 230. The clerk of the county to which such action is removed shall certify the amount of costs allowed and certified by the court to the auditor of his county, and such auditor shall audit the same and draw his warrant therefor upon the treasury of the county from which such action was removed; and such auditor shall forward to said treasurer and auditor of the county from which said action was transferred, as aforesaid, a certified copy of the total amount of costs allowed by the court, giving each item as certified to him by the county clerk and the court; and the auditor receiving such certified copy of said costs allowed shall enter the same in his book as a charge against the treasury of his county; and the county treasurer of the county from which said action was removed must, immediately upon presentation, pay said warrant out of the general fund of said county; or, if at the date of presentation there is not sufficient money in the said general fund to pay the same, he must indorse upon said warrant, "Not paid for want of funds," and said warrant must be registered, and shall draw interest at the same rate, and be paid in the same manner, as though it had been drawn by the auditor of the county where the indictment was found.

§ 231. Counties created or organized after the passage and approval of this act shall immediately come under and be governed by its pro-

visions, so far as the same are applicable thereto. When the population of any existing county shall have been reduced, by reason of the creation of any new county from the territory thereof, below the class and rank first assumed hereunder, it shall be the duty of the board of supervisors of such county to designate by order the class to which such county has been reduced by reason thereof, and such county shall thereafter enter the list of such class; provided, that the salary of county officers shall not be affected by reason of such division of the county or order of the board, for the term for which they were elected and qualified. In any newly created county, for the purpose of fixing the salaries and fees of county and township offices, the board of commissioners appointed to organize said new county, and if no commissioners be appointed, then the board of supervisors of said new county, shall classify said new county according to the population classification of this act. In each case the population shall be numerically fixed, and when so fixed shall be certified to the secretary of state by the board fixing the same.

§ 232. All acts and parts of acts inconsistent with this act are hereby repealed.

§ 233. The provisions of sections one hundred and fifty-eight to two hundred and fourteen, inclusive, of this act, so far as they change the compensation of any officer therein named, heretofore paid a fixed salary, or heretofore paid a fixed salary and commissions, and not fees or per diem, shall not affect incumbents, unless otherwise provided in any of said sections.

§ 234. This act, except as otherwise herein provided, shall take effect and be in force sixty days from and after its passage.

TITLE 121. COURTS.

ACT 842.

Regulating practice in supreme court. [Stats. 1871-72, p. 391.]

Superseded by the constitution of 1879.

ACT 843.

Determining who must act as chief justice of the supreme court.
[Stats. 1871-72, p. 364.]

Superseded by the constitution of 1879.

ACT 844.

To transfer records, etc., from the courts existing prior to 1879. [Stats. 1880, p. 2.]

ACT 845.

Authorising judges of superior court in counties, and cities and counties, having a population of two hundred thousand or over, to appoint a secretary. [Stats. 1895, p. 98.]

Amended 1909. p. 940

ACT 846.

To confer upon the superior court of each county powers heretofore possessed by the district, county and probate court. [Stats. 1880, p. 23.]

ACT 847.

An act to authorize the district court of appeal for the second district to provide proper rooms in which to hold court and for the proper accommodation of its officers and library, and authorizing the presiding justice to enter into contracts or leases therefor; and providing for an appropriation of money therefor. [Approved March 21, 1907. Stats. 1907, p. 846.]

TITLE 122.**COYOTE SCALPS.****ACT 851.**

Fixing a bounty on coyote scalps. [Approved March 31, 1891. Stats. 1891, p. 280.]

Repealed 1895, p. 1.

Citations. Cal. 106/116, 120, 125; 141/855; 144/683, 686, 689, 693, 694, 696.

TITLE 123.**CRESCENT CITY.****ACT 856.**

To incorporate. [Stats. 1854, p. 197.]

Amended 1857, pp. 56, 225; 1858, p. 233.

ACT 857.

Authorizing location of townsite of. [Stats. 1859, p. 24.]

Amended 1860, p. 279; 1862, p. 226.

ACT 858.

Ceding lands to. [Stats. 1867-68, p. 335.]

Amended 1869-70, p. 131.

This act granted to Crescent City its waterfront.

ACT 859.

Relating to the road, poll and property tax in. [Stats. 1877-78, p. 204.]

Citations. Cal. 59/327, 328, 549, 550.

TITLE 124.**CRIMINAL LAW.****ACT 863.**

An act to create a state bureau of criminal identification, providing for the appointment of a director of said bureau, defining his duties, qualifications and powers, providing for the appointment of a clerk

of said bureau, and fixing his qualification, fixing the compensation of said director and clerk, and providing for the manner of paying the same, and providing for the expense of conducting the office. [Approved March 20, 1905. Stats. 1905, p. 520.]

Code commissioners say this act was codified by § 1572 et seq., Penal Code, as adopted in 1907.

ACT 864.

To abolish public executions. [Stats. 1858, p. 192.]

Superseded by Penal Code, § 1229.

TITLE 125.**CRUELTY TO ANIMALS.****ACT 869.**

For the more effectual prevention of cruelty to animals. [Stats. 1867-68, p. 604.]

Continued in force, Penal Code, § 23; Political Code, § 19; but repealed by act of 1878-74, p. 502.

ACT 870.

Providing for the more effectual prevention of cruelty to animals. [Stats. 1871-72, p. 393.]

Repealed 1878-74, p. 502.

ACT 871.

For the more effectual prevention of cruelty to animals. [Stats. 1873-74, p. 499.]

Amended 1901, p. 285; 1903, p. 69; 1905, p. 498.

Codified. See notes in Penal Code, Appendix, p. 749.

ACT 872.

An act to prohibit the use of the bristle bur, tack bur, or other like devices on horses or other animals in this state.

[Approved March 13, 1903. Stats. 1903, p. 139.]

§ 1. It shall be unlawful hereafter in this state for anyone, owner, driver or other person, having the care, custody or control of any horse or other animal, to use what is known as the bristle bur, tack bur, or other like device, by whatsoever name known or designated, on any said horse or other animal for any purpose whatsoever.

§ 2. A violation of the provisions of this act shall be deemed a misdemeanor and anyone found guilty thereof shall be punished by a fine of not less than twenty-five dollars nor more than two hundred and fifty dollars, or by imprisonment in the county jail not less than ten nor more than one hundred and seventy-five days, or may be punished by both such fine and imprisonment.

§ 3. All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

§ 4. This act shall take effect and be in force from and after its passage.

CRUELTY TO CHILDREN.

See tit. "Infancy," post.

TITLE 126.

DAIRIES.

ACT 875.

An act to prohibit adulteration and deception in the sale of dairy products, defining adulteration in dairy products, to establish standards of quality in dairy products and to provide for enforcing its provisions. [Approved March 15, 1907. Stats. 1907, p. 265.]

Amended 1909, p. 1088.

This act appears in full in Penal Code, Appendix, p. 769.

Citations. Cal. App. 8/297, 298.

ACT 876.

An act to prevent the sale of dairy products from unhealthy animals and produced under unsanitary conditions; to provide for the inspection of dairy stock, dairies, factories for the production of dairy products and places where dairy products are handled and sold; to improve the quality of dairy products of the state; to prevent deception in the sale of dairy products and to appropriate money for enforcing its provisions.

[Approved March 20, 1905. Stats. 1905, p. 462.]

See, also, Stats. 1907, p. 265; ante, Act 875.

§ 1. No person or persons, firms or corporations, by themselves or their agents or employees, shall sell, expose for sale or offer for sale, or exchange, present or deliver to any creamery, cheese factory, milk condensing factory, or any other buyer or consumer, any unclean, unwholesome, stale, impure milk, cream, butter, condensed or evaporated milk or other article produced from such milk or cream. Neither shall any person or persons, firms or corporations, by themselves or their agents or employees, sell, expose for sale, or offer for sale, or exchange, present or deliver to any consumer, creamery, cheese factory, milk condensing factory, or any other buyer or consumer, any milk, cream, butter, cheese, condensed milk or other products manufactured therefrom, which has been produced in or by a dairy, or factory of dairy products, or that is, or has been, handled in any store or depot that is in an unsanitary condition, or that is produced from cows affected by any disease or from cows within five days after or fifteen days preceding parturition.

§ 2. A dairy shall be deemed unsanitary under the meaning of this act when, among other causes that render milk, or products made therefrom, unclean, unwholesome, impure, and unhealthy,

(b) If the drinking water is stagnant, polluted with manure, urine, drainage, decaying vegetable or animal matter.

(c) If the yards or inclosures are filthy or unsanitary, or if any part of such yards or inclosures, other than pastures, are made the depositories of manure in heaps or otherwise where it is allowed to ferment and decay.

If the walls become soiled with manure, urine or other filth.

(g) If to the interior of cattle stables, barns or milking sheds an application of lime whitewash is not made at least once in two years, or if the mangers, or other receptacles from which cows are fed, decaying food or other material is allowed to accumulate.

(i) If the pails, cans, bottles or other containers of milk, or its products, strainers, coolers or other utensils coming in contact with milk or its products are not sterilized by boiling water or superheated steam each and every time the same are used.

(j) If the person or wearing apparel of the dairyman, his employees, or other persons, who come in contact with milk and its products are soiled or not washed from time to time.

§ 3. A creamery or any factory of dairy products or any store, depot or other place where milk is handled or kept for sale shall be deemed unsanitary under the meaning of this act when, among other causes that render milk, or products made therefrom, unclean, unwholesome, impure, stale or of low grade or inferior quality.

(a) If milk or cream is received that has reached an advanced stage of fermentation, or that shows a state of putrefactive fermentation, or if it is received in cans or other containers that have not been sterilized by means of boiling water or superheated steam after each delivery.

(b) If the utensils and apparatus that comes in contact with milk or its products in process of manufacture are not thoroughly washed and sterilized by means of boiling water or superheated steam.

(c) If the floor is so constructed that permits the flowing or soaking of water, milk or other liquids underneath or among the interstices of such floor where fermentation and decay may take place, or if such floor may not be readily kept free from dirt.

(d) If drains are not provided that will convey refuse milk, water and sewage at least fifty yards from such creamery or factory of dairy products, or if any cesspool, privy vault, hog-yard, slaughter-house, manure or any decaying vegetables or animal matter shall be within a distance that will permit foul odors from reaching any creamery or other factory of dairy products or store or depot where milk or its products is sold or handled.

(e) If such creamery or factory of dairy products does not permit access of light and air sufficient to secure good ventilation.

(f) If any building or buildings used in connection with any creamery, or factory of dairy products, any insects or other species of animal life are permitted, or if upon the floor, the sides and walls any milk or its products, or if any other filth is allowed to accumulate and ferment and decay, or if the bodies or wearing apparel of persons em-

ployed, or coming in contact with any milk or its products in any creamery, or factory of any dairy products, shall be unclean and not washed from time to time.

§ 4. No person or persons, firms or corporations, by themselves or their agents or employees, shall sell, expose for sale, or exchange, present or deliver to any creamery, cheese factory, milk condensing factory, ice-cream producer, or any other buyer, or consumer, any milk, or any product manufactured or prepared therefrom, to which any compound containing salicylic acid, formaldehyde, coloring matter or any other chemical or preparation other than common salt, or sodium chloride, shall have been added with intent to prevent fermentation, or to change the color (in case of milk and cream); provided, that such person or persons, firms or corporations or their agents or employees may use preparations of boron to prevent fermentation in milk or its products, but whenever any preparation of boron is used for such purpose, each and every package or container of milk or its products shall have plainly marked thereon, the fact that it contains such preparation of boron.

Neither shall any gelatine, or other substance, be added to milk or cream with intent to increase its viscosity or otherwise cause it to appear better in quality than it is, except each and every package and container of such milk or cream shall have marked thereon in a manner, or be accompanied by a statement, to be prescribed by the state dairy bureau, showing the nature of the substance added; provided, that this section shall not be construed to prevent the use of harmless coloring matter in butter, ice-cream or confectionery into which milk or its products enter.

§ 5. No person or persons, firms or corporations, by themselves or their agents or employees, shall manufacture for sale, offer for sale, expose for sale, or have in his or their possession for sale, any package of butter upon which, or upon the wrapper or container of which, there shall be printed, or otherwise marked, the word pasteurize or any of its derivatives unless in the process of the manufacture of the butter contained therein either the milk or cream from which the same was made shall have been exposed to a temperature exceeding one hundred and fifty degrees Fahrenheit.

§ 6. In case any butter is sold or offered for sale in a package or wrapper purporting to designate the producer of such butter, such producer must be correctly designated; and if under a label purporting or calculated to designate the place of production, specifying county and state, must be correctly designated. No person, firm or corporation shall put up in package or wrapper or otherwise prepare for shipment or sale any butter under label purporting to designate the producer or place of production, except in accordance with the provisions herein; nor shall any person sell or offer for sale any butter in a package or wrapper purporting to designate the name of the producer or the place of production except in accordance with the provisions herein.

§ 7. It shall be the duty of the state dairy bureau, now existing under the laws of this state, to carry out and enforce the provisions of this act, and it is authorized and directed under this act out of the money appropriated as provided herein, to employ such assistant agents as inspectors as it may deem necessary and to fix their compensation not to exceed \$4 per day, exclusive of their necessary and actual expenses, such expenses to be itemized and rendered under oath, or \$100 per month exclusive of their necessary and actual expenses. Such agents shall have had experience in the manufacture of dairy products and the handling of dairy cattle. In carrying out the provisions of this act the secretary and agent of the state dairy bureau shall receive, in addition to the salary now received under the provisions of the act creating said state dairy bureau, such additional compensation as the dairy bureau may see fit, but not to exceed \$100 per month to be drawn from the amount appropriated herein. The state dairy bureau through its agent and secretary, and assistant agents shall inspect the dairies, dairy cattle, creameries and other factories of dairy products, markets, and other places where dairy products are prepared or handled, and keep a careful record of such inspection and report the same to the state dairy bureau, and upon evidence obtained that any of the provisions of this act are being violated, the state dairy bureau, through its agent and secretary, or its assistant agents, shall duly enter complaint against the party or parties, responsible for such violations and cause the same to be prosecuted, except in cases where any dairy, creamery or other factory of milk products or store or depot where milk and its products are handled and sold, is found to be in an unsanitary condition, in which case the agent and secretary, or the assistant agent, for the district in which the violation occurred, shall serve upon the owner, or owners, or person in charge of the dairy, creamery or other factory of milk products so found to be in an unsanitary condition, a written notice specifying in detail such changes that are to be made that will place such dairy, creamery, or other factory of milk products or store or depot in a sanitary condition as defined in this act. Should such changes not have been made at the expiration of thirty days after the date when the notice was served, the state dairy bureau, through its agent and secretary, or its assistant agents, shall enter complaint against the person or persons responsible for such unsanitary conditions and cause them to be prosecuted for violating this act.

§ 8. The state dairy bureau is authorized under this act to gather and compile statistics relative to the dairy industry and to disseminate the same and other information useful to, and to the general good and development of the dairy industry of the state.

§ 9. Whenever any agent or inspector of the state dairy bureau shall discover the existence of any contagious or infectious disease among dairy cattle, or have good reason to believe that such disease may exist the same shall be immediately reported to the state veterinarian.

§ 10. Whoever shall violate any of the provisions of this act shall be deemed guilty of misdemeanor, and upon conviction thereof shall be punished by a fine of not less than ten dollars nor more than two hundred dollars or by imprisonment in the county jail for a period of not less than ten days nor more than one hundred days, or by both such fine and imprisonment. Any person or persons who shall hinder or prevent an agent or inspector of the state dairy bureau, in the performance of his duty under this act, shall likewise be deemed guilty of a misdemeanor, and upon conviction, shall be fined as already provided in this act. One-half of all fines imposed for the violation of this act shall be paid to the state dairy bureau which shall pay the same to the state treasurer and the same shall become a part of the appropriation under this act. The remaining one-half of such fines shall be paid to the county in which the fine is imposed.

§ 11. It shall be the duty of the district attorney, upon application of the state dairy bureau, through its agent and secretary, or assistant agents to attend to the prosecution, in the name of the people, of any suit brought for the violation of any of the provisions of this act within his district.

§ 12. There is hereby appropriated for the use of the state dairy bureau in enforcing and carrying out the provisions of this act, out of any money in the state treasury not otherwise appropriated, the sum of one thousand five hundred dollars (\$1,500) for the remainder of the fifty-sixth fiscal year; five thousand dollars, (\$5,000) for the fifty-seventh fiscal year and five thousand dollars (\$5000) for the fifty-eighth fiscal year. All salaries, fees, costs and expenses shall be drawn from the money so appropriated, and the state controller shall draw his warrant on the state treasury in favor of the person or persons entitled to the same.

§ 13. An act approved March 22, 1899, entitled "An act to provide for the inspection of dairies, factories of dairy products, and of dairy products as to their sanitary condition, and as to the health of stock; to prevent the sale of milk and products of milk drawn from diseased animals; to prevent the spread of infectious and contagious diseases common to stock, and to appropriate money therefor," and all other acts or parts of acts inconsistent with this act are hereby repealed.

§ 14. This act shall take effect thirty days after its passage.

ACT 877.

To provide for the inspection of dairies, factories of dairy products, and of dairy products as to their sanitary condition and as to the health of stock; to prevent the sale of milk and the products of milk drawn from diseased animals; to prevent the spread of infectious and contagious diseases common to stock. [Stats. 1899, p. 171.]

Repealed 1905, p. 467. See ante, Act 876.

**TITLE 127.
DAVISVILLE.**

ACT 882.

To prevent hogs and goats running at large in. [Stats. 1873-74, p. 82.]
See § 9, Stats. 1897, p. 198; Stats. 1901, p. 603, §§ 9, 10.

**TITLE 128.
DEADLY WEAPONS.**

ACT 887.

To prevent the improper and criminal use of deadly weapons. [Stats. 1855, p. 268.]
Superseded by Penal Code, § 417.

ACT 888.

An act providing for the registration of the purchasers of pistols; and providing for the punishment of dealers neglecting to register such purchasers. [Approved March 6, 1909. Stats. 1909, p. 163.]

**TITLE 129.
DEAF, DUMB, AND BLIND ASYLUM.**

ACT 892.

Powers of directors. [Stats. 1875-76, p. 686.]

ACT 893.

Supply of water for and for university. [Stats. 1875-76, p. 816.]
Deaf, Dumb, and Blind Asylum: See Political Code, §§ 2237-2282.

**TITLE 130.
DEATHS.**

ACT 897.

An act for the registration of deaths, the issuance and registration of burial and disinterment permits and the establishment of registration districts in counties, cities and counties, cities and incorporated towns, under the superintendence of the state bureau of vital statistics and prescribing the powers and duties of registrars, coroners, physicians, undertakers, sextons and other persons in relation to such registration and fixing penalties for the violation of this act.

[Approved March 18, 1905. Stats. 1905, p. 115.]
Amended 1907, p. 296.

§ 1. That department of the state board of health known as the state bureau of vital statistics shall provide for and superintend the complete and proper registration of deaths for legal, sanitary and statistical purposes.

§ 2. That for the purposes of this act the state shall be divided into registration districts as follows: Each city and county, city and incor-

porated town, and each county exclusive of the portion included within cities and incorporated towns, shall constitute a primary registration district.

§ 3. That the recorder of each county and city and county, and the clerk of each city or incorporated town, shall be the local registrar in and for such primary registration district and shall perform all such duties of local registrar as hereinafter provided; provided however, that in cities having a freeholders' charter the health officer shall act as local registrar and perform all the duties thereof. Each local registrar shall immediately appoint in writing, a deputy who shall be authorized to act in his stead in case of absence, death, illness or disability, and when it may appear necessary for the convenience of the people in any registration district, the local registrar is hereby authorized with the approval of the state registrar of vital statistics to appoint one or more proper and competent persons to act as subregistrars, who shall be authorized to receive certificates of death and to issue burial permits or removal permits in and for such portions of the registration district as may be designated. Each subregistrar shall note in legible writing over his signature, the date each certificate of death was filed, and shall forthwith forward the certificate to the local registrar of the registration district, and in all cases before the fifth day of the following month; provided, that all subregistrars shall be subject to the supervision and control of the state registrar of vital statistics. [Amendment approved March 15, 1907. Stats. 1907, p. 297.]

§ 4. That the body or remains of no person whose death occurs in the state shall be interred, deposited in a vault, grave or tomb, cremated, disinterred or otherwise disposed of, or removed from or into any registration district until a permit for burial, disinterment or removal shall have been properly issued by the registrar of the registration district in which the death occurs, except in the case where there are two or more registration districts within the same county, or where there are two contiguous registration districts not in the same county, a body may be removed from the registration district where the death occurred to another registration district within the same county, or contiguous registration districts in different counties, for the purpose of preparing said body for burial or shipment, provided that before such burial or shipment the undertaker, sexton or other person in charge shall have first secured a permit for the interment or removal of said body from the registrar of the registration district where the death occurred. And no such burial or removal permit shall be issued by any registrar until a complete and satisfactory certificate and return of the death has been filed with him, as hereinafter required; provided that in case of any death outside of the state, where the body is accompanied by a removal or transit permit issued in accordance with the law and the health regulations in force where the death occurred, such removal or transit permit shall be accepted as of the same authority as a permit from the local registrar when such removal or transit permit shall have indorsed thereon the written approval of the state

registrar of vital statistics, or when said state registrar otherwise officially notifies the local registrar of his approval. [Amendment approved March 15, 1907. Stats. 1907, p. 297.]

§ 5. Stillborn children, or those dead at birth, shall be registered as deaths under this act, and a certificate of death and burial or removal permit in usual form shall be required. The medical certificate of cause of death shall be signed by the attending physician or midwife, and shall state the cause of death as "stillborn," with the cause of the stillbirth, whether a premature birth, and if born prematurely, the period of uterogestation in months, if known.

§ 6. That the certificate of death shall be of the standard form recommended by the United States Census Office and the American Public Health Association, and shall contain the following items:

(1) Place of death, including state, county, township or town, city or village. If in a city the ward, street and house number. If in a hospital, or other institution, the name of the same to be given instead of the street and house number.

(2) Full name of decedent. If an unnamed child the surname, preceded by "unnamed."

(3) Sex.

(4) Color or race—as white, black (negro or negro descent), Indian, Chinese, Japanese, or other.

(5) Conjugal condition—as single, married, widowed, or divorced.

(6) Date of birth, including the year, month and day.

(7) Age, in years, months and days.

(8) Place of birth; state or foreign country.

(9) Name of father.

(10) Birthplace of father; state or foreign country.

(11) Maiden name of mother.

(12) Birthplace of mother; state or foreign country.

(13) Occupation; the occupation to be reported of any person who had any remunerative employment—women as well as men.

(14) Signature and address of informant.

(15) Date of death, including the year, month, and day.

(16) Statement of medical attendance on decedent, fact and time of death, including the time last seen alive.

(17) Cause of death, including the primary and immediate causes, and contributory causes or complications, if any, and the duration of each.

(18) Signature and address of physician or official making the medical certificate.

(19) Special information concerning deaths in hospitals and institutions and of persons dying away from home, including the former or usual residence, length of time at place of death, and place where the disease was contracted.

(20) Place of burial or removal.

(21) Date of burial or removal.

(32) Signature and address of undertaker.

(23) Official signature of registrar with date when certificate was filed and registered number.

The certificate shall be written legibly in permanent black ink, type-written or printed, and no certificate shall be held to be complete and correct that does not supply all of the items of information specified above or satisfactorily account for the omission of any of said items.

The personal and statistical particulars (items 1 to 13) or such other items as shall be required by the state registrar shall be authenticated by the signature of the informant, who may be any competent person acquainted with the facts.

The statement of facts relating to the disposition of the body shall be signed by the undertaker or person acting as such.

The medical certificate shall be made and signed by the physician, if any, last in attendance on the deceased, who shall specify the time in attendance, the time he last saw the deceased alive, and the hour of the day at which death occurred. He shall further state the cause of death so as to show the course of disease or sequence of causes resulting in death, giving the primary and immediate causes, and contributing causes, if any, and the duration of each. Indefinite and unsatisfactory terms indicating only symptoms of disease or conditions resulting from disease will not be held sufficient for issuing a burial or removal permit, and any certificate containing only such terms, as defined by the state registrar, shall be returned to the physician for correction or definition. Causes of death which may be the result of either disease or violence shall be carefully defined; and, if from violence, its nature shall be stated, and whether accidental, suicidal or homicidal. For cause of deaths in hospitals, institutions, or away from home, the physician shall furnish the information required under this head, and shall state where, in his opinion, the disease was contracted. The cause of death and all other facts required shall in all cases be stated in accordance with the instructions and directions of the state registrar.

§ 7. In case of any death occurring without medical attendance, it shall be the duty of the undertaker to notify the registrar of such death and when so notified the registrar shall refer the case to the coroner for his investigation and certification, and the coroner shall within three days after the inquest furnish the local registrar where such death occurs a certificate in form and substance as required by the state registrar and containing as many of the facts required by this act as can be ascertained. Said local registrar shall then forthwith transmit such certificate to the state registrar, retaining a copy thereof on file in his office.

§ 8. The undertaker, or person acting as undertaker, shall be responsible for obtaining and filing the certificate of death with the registrar and securing a burial or removal permit prior to any disposition of the body. He shall obtain the personal and statistical particulars

required from the person best qualified to supply them over the signature and address of his informant. He shall then present the certificate to the attending physician, if any, or to the health officer or coroner, as directed by the registrar, for the medical certificate of the cause of death and other particulars necessary to complete the record, as specified in the preceding section. And he shall then state the facts required relative to the date and place of burial over his signature and with his address, and present the completed certificate to the registrar within the time limit, if any, designated by the local board of health for the issuance of a burial or removal permit. The undertaker shall deliver the burial permit to the sexton or person in charge of the premises before interring the body, or attach it to the box containing the corpse, when shipped by any transportation company, to accompany same to destination, when it shall be accepted by the sexton as authority for the interment of the body.

§ 9. It shall be the duty of each local registrar to supply to any persons requiring them, blank forms of certificates prepared and furnished by the board of supervisors of the county. He shall carefully examine each certificate when presented for record to see that it has been made out in accordance with the provisions of this act, and the instructions of the state registrar, and if any certificate is incomplete or unsatisfactory, it shall be his duty to call attention to the defects in the return and to withhold issuing the burial or removal permit until they are corrected. He shall then number them in consecutive order, beginning with number one for the first death in each calendar year, and sign his name as registrar in attest of the date of filing in his office. If the certificate is properly executed and complete, he shall then issue a burial or removal permit to the undertaker; provided, that in case the death occurred from some disease that is held by the state board of health to be infectious, contagious, or communicable and dangerous to the public health, no permit for the removal or other disposition of the body shall be granted by the registrar except under such conditions as may be prescribed by the state and local boards of health. He shall also make a complete and accurate copy of each certificate registered by him, upon a form identical with the original certificate, to be filed and permanently preserved in his office as the local record of such death, in such manner as directed by the state registrar. He shall, on or before the fifth day of each month, transmit to the state registrar all original certificates registered by him during the preceding month. If no deaths occurred in any month he shall, on or before the fifth day in any month, report that fact to the state registrar in such manner as the state registrar shall direct. [Amendment approved March 15, 1907. Stats. 1907, p. 298.]

§ 10. If the interment or other disposition of the body is to be made in the registration district in which the death occurred, or in a contiguous registration district in the same or an adjoining county, the wording of the burial permit may be limited to a statement by the

registrar, and over his signature, that a satisfactory certificate of death having been filed with him as required by law, permission is granted to inter, remove or otherwise dispose of the body of the deceased, stating the name, age, sex, and cause of death and other necessary details upon the form prescribed by the state registrar. In case the interment or other disposition of the body is to be made in some registration district not contiguous to that in which the death occurred, a complete copy of the certificate of death shall be attached to and made a part of the removal permit issued by the registrar of the district in which the death occurred. [Amendment approved March 15, 1907. Stats. 1907, p. 298.]

§ 11. No sexton or person in charge of any premises in which interments are made shall inter or permit the interment of any body unless it is accompanied by a burial, removal, or transit permit as herein provided. Each sexton or person in charge of any burial ground shall indorse upon the permit the date of interment, over his signature, and shall return all permits, so indorsed, to the local registrar of his district within one day from the date of interment. He shall also keep a record of all interments made in the premises under his charge, stating the name of the deceased person, place of death, date of burial, and name and address of the undertaker, which record shall at all times be open to public inspection.

§ 12. The state registrar shall prepare a sample form and blank for all registrars for use in registering, recording and preserving the returns or in otherwise carrying out the purposes of this act, and shall prepare and issue such detailed instructions as may be required to secure the uniform observance of its provisions and the maintenance of a perfect system of registration. No other forms or blanks shall be used than those prescribed by the state registrar. He shall carefully examine the certificates received monthly from the local registrars, and if any such are incomplete or unsatisfactory he shall require such further information to be furnished as may be necessary to make the record satisfactory. All physicians, informants, or undertakers connected with the case, and all other persons having knowledge of the facts, are hereby required to furnish such information as they may possess regarding any death, upon demand of the state registrar, in person, by mail, or through the local registrar. He shall further arrange, bind and permanently preserve the certificates in a systematic manner, and shall prepare and maintain a comprehensive index of all deaths registered, showing the name of deceased, place and date of death, number of certificate, and the volume in which it is contained. He shall inform all registrars what diseases are to be considered as infectious, contagious, or communicable, and dangerous to the public health, as decided by the state board of health, in order that when deaths occur from such diseases proper precautions may be taken to prevent the spreading of dangerous diseases, and all rules and regulations made by him for carrying out and enforcing the purposes of this

act shall, when promulgated, have the same force and effect as if enacted by law.

§ 13. Whenever it may be alleged that the facts are not correctly stated in any certificate of death theretofore registered, the local registrar shall require an affidavit under oath to be made by the person asserting the fact, to be supported by the affidavit of one other credible person having knowledge of the facts, setting forth the changes necessary to make the record correct. Having received such affidavits, the local registrar shall file them and shall then draw a line through the incorrect statement or statements in the certificate, without erasing them, and make the necessary corrections, noting on the margin of the certificate his authority for so doing, and transmit the affidavits, attached to the original certificate, when making his regular monthly returns to the state registrar. If the correction relates to a certificate previously returned to the state registrar, the local registrar shall transmit the affidavit forthwith to the state registrar. If the correction is first made upon the original certificate on file in the state bureau of vital statistics, the state registrar shall transmit a certified copy of the original certificate, corrected as above, to the local registrar, who shall thereupon substitute such certified copy for the copy of the certificate in his records. All such corrections and marginal notes referring to them shall be legibly written in ink, typewritten or printed. [Amendment approved March 15, 1907. Stats. 1907, p. 298.]

§ 14. Each local registrar shall be entitled to be paid the sum of not exceeding twenty-five cents for each death certificate properly and completely made out and registered with him, and by him returned to the state registrar on or before the fifth day of the following month, which sum shall cover and include the making out of the burial permit and the copy of the certificate to be filed and preserved in his office. And in case no deaths were registered during any month, the local registrar shall be entitled to a sum not exceeding twenty-five cents for each report to that effect, promptly made in accordance with the directions of the state registrar: provided, however, that all such compensation for such services shall be fixed by the board of supervisors, city council, trustees or other governing body of such county, city and county, city or town, constituting such registration district.

All amounts payable to registrars under the provisions of this act shall be paid out of the funds provided by the supervisors, council, trustees, or other governing body of such county, city and county, city or town, constituting a primary registration district, upon warrants drawn by the local auditor or other proper local officer of such county, city and county, city or town, which warrants shall specify the number of certificates properly registered and also the number of reports promptly returned where no deaths are registered, with the amount claimed to be due for each: provided, however, that a warrant shall not be issued to any local registrar, or if issued shall not be paid, where notice is previously given by the state registrar to the auditor, treas-

uror or other proper officer of such county, city and county, city or town constituting such registration district, that the local registrar claiming any fee has failed to comply with the rules and regulations of the state bureau of vital statistics and the instructions of the state registrar.

Each subregistrar shall be entitled to be paid the sum of not exceeding fifteen cents for each death certificate properly and completely registered with him, and by him returned to the local registrar before the fifth day of the following month. All amounts payable to subregistrars shall be paid to them by the local registrars appointing them from the amounts received by the local registrars as hereinbefore provided. [Amendment approved March 15, 1907. Stats. 1907, p. 299.]

§ 15. The state registrar or local registrar shall, upon request, furnish any person a certified copy of the record of any death registered under provisions of this act, for the making and certification of which he shall be entitled to a fee of fifty cents to be paid by the applicant. And any such copy of the record of a death, when certified by the state registrar or local registrar to be a true copy thereof, shall be prima facie evidence in all courts and places of the facts therein stated. For any search of the files and records, when no certified copy is made, the state registrar or local registrar shall be entitled to a fee of fifty cents, to be paid by the applicant, for each hour or fractional part of an hour employed in such search. And the state registrar or local registrar shall keep a full and correct account of all fees received by him under these provisions and deposit such money with the state treasurer who shall credit the amount to the fund provided and to be used for the payment of the traveling and contingent expenses of the state board of health. [Amendment approved March 15, 1907. Stats. 1907, p. 300.]

§ 16. Every physician and undertaker, residing in, at the date of this act or thereafter establishing a residence in, any registration district, shall forthwith register his or her name, address, and occupation, with the local registrar of the district in which he or she resides, and they shall thereupon be furnished by the registrar a copy of this act and such rules, regulations, and instructions as may be prepared by the state registrar with relation to their duties under this act.

§ 17. If any physician who was in medical attendance upon any deceased person at the time of death shall neglect or refuse to make out and deliver to the undertaker, sexton, or other person in charge of the interment, removal, or other disposition of the body, upon request, the medical certificate of cause of death hereinbefore provided for, or shall willfully or knowingly make a false certification of the cause of death in any case, he shall be deemed guilty of a misdemeanor.

If any undertaker, sexton, or other person acting as undertaker, shall inter, remove, or otherwise dispose of the body of any deceased person without having received a burial or removal permit as herein provided, he shall be deemed guilty of a misdemeanor.

Any registrar, deputy registrar or subregistrar who shall neglect or fail to enforce the provisions of this act in his district, or shall neglect or refuse to perform any of the duties imposed upon him by this act or by the instructions and directions of the state registrar, shall be deemed guilty of a misdemeanor.

And any person or persons who shall violate any of the provisions of this act, or shall willfully neglect or refuse to perform any duties imposed upon them by the provisions of this act, shall be deemed guilty of a misdemeanor.

Any transportation company or common carrier transporting or carrying, or accepting through its agents or employees for transportation or carriage, the body of any deceased person without an accompanying permit, issued in accordance with the provisions of this act, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than fifty nor more than two hundred dollars.

§ 18. Local registrars are hereby charged with the strict and thorough enforcement of the provisions of this act in their districts under the supervision and direction of the state registrar. They shall make an immediate report to the state registrar of any violations of this law coming to their notice by observation or upon complaint of any person or otherwise. The state registrar shall have authority to investigate cases of irregularity or violation of law, personally or by accredited representative, and all registrars shall aid him, upon request, in such investigations. When he shall deem it necessary, he shall report cases of violation of any of the provisions of this act to the prosecuting attorney or other proper officer of the county or municipality, with a statement of the facts and circumstances, and when any such case is reported to them by the state registrar all prosecuting attorneys or officials acting in such capacity shall forthwith initiate and promptly follow up the necessary court proceedings against the parties responsible for the alleged violations of law.

§ 19. All acts and parts of acts in conflict or inconsistent with the provisions of this act are hereby repealed.

TITLE 131.

DEBRIS COMMISSIONER.

ACT 898.

To provide for the appointment, duties and compensation of a debris commissioner. [Stats. 1893, p. 339.]

Amended 1897, p. 169; 1901, pp. 284, 564; 1905, p. 142; § 6 repealed 1901, p. 564.

Repealed 1907, pp. 215, 224.

TITLE 132.

DEEDS.

ACT 903.

Concerning conveyances. [Stats. 1850, p. 249.]

Citations. Cal. 43/848; 54/488; 64/506; 64/269.

This act prescribed the manner of making and acknowledging conveyances. It was superseded by the codes.

ACT 904.

Real estate, conveyances of. [Stats. 1873-74, p. 345.]

Citations. Cal. 154/89.

Partly codified by § 1096 of Civil Code. See note to § 1096, Civil Code. It relates to conveyances by persons whose names are changed.

TITLE 133.**DEL NORTE COUNTY.****ACT 909.**

To establish the boundary line between the county of Humboldt and the counties of Del Norte and Siskiyou. [Stats. 1901, p. 600.]

ACT 910.

Making applicable to act of 1871-72, p. 203, relating to fence and pound districts. [Stats. 1875-76, p. 391.]

ACT 911.

Provision for care of indigent sick of. [Stats. 1871-72, p. 169.]

Superseded by subds. 5 and 6, § 25, County Government Act, 1897, pp. 458, and 1901, p. 636.

ACT 912.

Repealing all special road laws in force and relating to. [Stats. 1875-76, p. 335.]

ACT 913.

Supervisors, changing manner of electing. [Stats. 1871-72, p. 756.]

Amended 1873-74, p. 12. Repealed by County Government Act, 1897, p. 452.

ACT 914.

Superintendent of schools, salary of. [Stats. 1875-76, p. 507.]

Repealed by County Government Act, 1897, p. 569, § 212.

ACT 915.

Treasurer of, bonds of. [Stats. 1877-78, p. 2.]

Superseded by County Government Act, 1897, p. 475, § 66.

ACT 916.

Transfer of swamp land fund to general fund. [Stats. 1875-76, p. 143.]

Superseded by subd. 13, § 25, County Government Act, 1897, p. 463.

TITLE 134.**DENTISTRY.****ACT 921.**

Insuring the better education of practitioners of dental surgery, and to regulate the practice of dentistry. [Stats. 1885, p. 110.]

See post, Act 922.

Amended 1898, p. 70. Repealed 1901, p. 564.

Citations. Cal. 144/168, 169, 170, 177; 154/859.

ACT 922.

An act to insure the better education of practitioners of dental surgery, and to regulate the practice of dentistry in the state of California, providing penalties for the violation hereof, and to repeal an act now in force relating to the same and known as "An act to insure the better education of practitioners of dental surgery, and to regulate the practice of dentistry in the state of California, approved March 12, 1885."

[Approved March 23, 1901. Stats. 1901, p. 564.]

Amended 1903, p. 822; 1905, p. 480; 1907, p. 111; 1909, p. 800.

Citations. Cal. 144/169, 170, 171, 177; 154/357, 358, 362.

§ 1. It shall be unlawful for any person to engage in the practice of dentistry in the state of California, unless said person shall have obtained a license from a board of dental examiners, duly authorized and appointed under the provisions of this act to issue licenses; provided, that this act shall not affect the right under the laws of the state of California, of dentists to practice dentistry who have lawful right to practice dentistry at the time of the passage of this act, and no dentist shall be exempt from paying an annual license tax, as hereinafter provided. [Amendment approved April 6, 1909. Stats. 1909, p. 800. In effect immediately.]

§ 2. A board of dental examiners to consist of seven (7) reputable and ethical practicing dentists is hereby created, to be known as the board of dental examiners of California, whose duty it shall be to carry out the purposes and enforce the provisions of this act. The members of this board shall be appointed by the governor of California, all of whom shall have been actively and legally engaged in the practice of dentistry in the state of California, for at least (5) years next preceding the date of their appointment, and none of whom shall be members of the faculty of any dental college, or dental department of any medical college, in the state of California, or shall have any financial interest in any such college. The said seven (7) shall compose the board of dental examiners of California. The term for which the members of said board shall hold office shall be four (4) years, except that two of the members of the board first to be appointed under this act, shall hold their term of office for the term of one year, two for the term of two years, two for the term of three years, and one for the term of four years, and until their successors are duly appointed and qualified. In case a vacancy occurs in the membership of said board, such vacancy shall be filled by appointment by the governor, within thirty (30) days after such vacancy occurs.

§ 3. It shall be the power and duty of said board to elect from its membership the following officers: President, treasurer and secretary.

The secretary shall receive such compensation as may be fixed by the board, which shall be in addition to his per diem and mileage as a member of the board. They shall meet regularly at least twice each year, at such time and place as the board may designate, for the purpose of transacting its business, and special meetings may be held at such other times as the board may elect, or on the call of the president of the board, or of not less than four (4) members thereof. A written notice of the time, place and object of such special meeting shall be mailed by said secretary to all the members not parties to the call, at least fifteen (15) days before the day of meeting. The said board shall examine all applicants for licenses to practice dentistry according to the provisions of this act; collect and apply all fees as directed by this act; keep a book showing the names of all persons to whom licenses have been granted by said board to practice dentistry, and such other books as may be necessary to plainly show all the acts and proceedings of said board; have and to use a seal bearing the name "Board of dental examiners of California." [Amendment approved April 6, 1909. Stats. 1909, p. 800. In effect immediately.]

§ 4. Out of the funds coming into the possession of the board, each member of said board may receive as compensation ten dollars (\$10) for each day actually spent in attending to the duties of his office, and mileage at the rate of five cents (\$.05) per mile for all distances actually traveled in going to and coming from the meetings of the board. Said expenses shall be paid from the fees and fines received by the board under the provisions of this act, and no part of the salary or other expenses of the board shall ever be paid out of the state treasury.

§ 5. Each member of the board shall, upon his qualification and the organization of the board, file with the secretary, his postoffice address, and thereafter any notice of any change therein. Any notice sent to the address so on file, shall be deemed to comply with the requirements of this act as to notice to them.

§ 6. All books of said board shall be of public record and at all times during business hours open to public inspection. A certified copy of any part or all thereof shall be primary evidence in any court of this state. The original books shall be kept in the office of the secretary of said board wherever he may reside, and he shall furnish to any person making application therefor a copy of any part thereof, upon the applicant paying a fee of twenty-five cents (\$.25) per hundred words so copied, the said fee to belong to the secretary. All copies shall be certified by the secretary.

§ 7. The governor shall have the power to remove from office at any time, any member of the board for continued neglect of duty required by this act, or for incompetency, unprofessional or dishonorable conduct.

§ 8. Said board shall examine all applicants for examination, who shall furnish satisfactory evidence of having complied with the pro-

visions of this act relating to qualification for examination, together with the payment of the fee provided for in section twelve of this act. The examination of applicants shall be sufficiently thorough to test the fitness of the candidate to practice dentistry. It shall include, written in the English language, questions on the following subjects: Anatomy, physiology, chemistry, materia medica, therapeutics, metallurgy, histology, pathology, operative and prosthetic dentistry, oral surgery and orthodontia; the answers to which shall be written in the English language. Said written examination may be supplemented by an oral examination. Demonstrations of the applicant's skill in operative and prosthetic dentistry must also be given. All persons successfully passing such examinations shall be registered as licensed dentists on the board register, as provided in section three, and shall be granted by the board a license to practice dentistry in the state of California, which license is subject to renewal, as hereinafter provided. In no case shall any applicant be examined or given a license who is not twenty-one years of age. [Amendment approved April 6, 1909. Stats. 1909, p. 801. In effect immediately.]

§ 9. Any member of the board may inquire of any applicant for examination concerning his character, qualifications or experience, and may take testimony of any one in regard thereto, under oath, which he is hereby empowered to administer.

§ 10. Every person now licensed to practice dentistry in this state, who has failed to register his license with the clerk of the county wherein his place of business is located, as provided by law, must register the same within sixty days after this law takes effect, and every person who shall hereafter be licensed to practice dentistry in this state, shall within six months thereafter register in the office of the clerk where his place of business is located, in a book kept by the clerk for such purpose, and called a register of dentists, his name, age, office address, the date and number of his license to practice dentistry, and the date of such registration, which registration he shall be entitled to make only upon showing to the county clerk his license or a copy thereof certified by the secretary of the board over its seal, and making an affidavit stating his name, age, birth place, the number of his license and the date of its issue; that he is the identical person named in the license; that before receiving the same he complied with all the preliminary requirements of this statute and the rules of the board of dental examiners as to the terms and the amount of study and examination; that no money other than the fees prescribed by this statute and said rules, was paid directly or indirectly for such license, and that no fraud, misrepresentation or mistake in a material regard was practiced, employed or occurred by any person in order that such license should be conferred. Said person need not personally register before the county clerk but may make the affidavit afore provided before any officer authorized by law to administer oaths, and which affidavit together with the other information and license, or the certified copy thereof as afore provided, shall be forwarded to the

said county clerk, who shall act in the manner the same as if the party was personally present. The county clerk shall preserve such affidavit in a bound volume and shall issue to every licentiate duly registering and making such affidavit, a certificate of registration in his county, which shall include a transcript of the registration. Such transcript and license may be offered as primary evidence in all courts of the facts therein stated. A copy of such certificate of registration shall be sent by the county clerk to the secretary of the board within five (5) days after it is made. The county clerk's fees for taking such registration and affidavit and issuing such certificate of registration shall be one (\$1) dollar. A practicing dentist having registered a lawful authority to practice dentistry in one county of the state, and removing such practice or part thereof to another county shall show or send by registered mail to the clerk of such other county his certificate of registration. If such certificate clearly shows that the original registration was of an authority issued by the board of dental examiners, or if the certificate or registration itself is indorsed by the secretary of the board of dental examiners as entitled to registration, the clerk shall thereupon register the applicant in the registers of dentists of the latter county on receipt of a fee of fifty (50) cents, and shall stamp or indorse on such certificate of registration the date and his name preceded by the words "registered also in — county," and return the certificate of registration to the applicant. Any lawfully registered person who shall thereafter change his name according to law shall register the new name with a marginal note of the former name with the clerk of the county or counties where he is practicing. The clerk shall forthwith notify the secretary of the board of such change. Any county clerk who knowingly shall make or suffer to be made upon the register of dentists kept in his office any entry other than that provided for in this act, shall be liable to a penalty of fifty (\$50) dollars to be recovered by and paid to the said state board of dental examiners in a suit in any court having jurisdiction. Any failure, neglect or refusal on the part of any person holding such license to register the same with the clerk of said county as above directed for a period of six months after the issuance thereof shall ipso facto work a forfeiture of his license, and it shall not be restored except upon the payment to said board of twenty-five (\$25) dollars. Any suspension, revocation or reinstatement of a license shall with the date thereof be forthwith noted by the county clerk on the margin of the registration thereof upon receipt of notice from the secretary of the board. [Amendment approved April 6, 1909. Stats. 1909, p. 802. In effect immediately.]

§ 11. [Repealed. Stats. 1905, p. 430.]

§ 12. No person shall be eligible for examination by the state board of dental examiners who shall not furnish satisfactory evidence of having graduated from a reputable dental college, which must have been indorsed by the board of dental examiners of California, or who shall not furnish to said board of examiners a certificate from the state board

of dental examiners, or similar body, of some other state in the United States, showing that he or she has been a licensed practitioner of dentistry in this state for at least five (5) years. Provided, that every person actually engaged as an apprentice to a regularly licensed dentist in the state of California at the time of the passing of this act, shall be eligible for examination, if, within thirty (30) days after the passage of this act, he shall file with the secretary of the board an affidavit stating his name, age, the length of time for which he has been actually apprenticed and with whom; and who, at the time of his application for examination, shall show to the satisfaction of the board that he has served an apprenticeship of at least four (4) years and is a graduate from a high school or similar institution of learning in this or some other state of the United States requiring a three (3) years' course of study, and, provided, that no examination shall be given to an applicant claiming the right to take the same as an apprentice later than June, 1913. [Amendment approved April 6, 1909. Stats. 1909, p. 803. In effect immediately.]

§ 13. [Repealed April 6, 1909. Stats. 1909, p. 802. In effect immediately.]

§ 14. Before any person can practice dentistry in this state, he shall obtain a license to do so from the board of dental examiners. Each application shall be accompanied by a fee of twenty-five (\$25) dollars, which shall in no case be refunded. Such license shall be good until the following first day of May when it shall expire by limitation. An annual license fee of two (\$2) dollars shall thereafter be paid annually by every person practicing dentistry in this state, and it shall be the duty of said board to issue to all regularly licensed dentists upon application and the payment of \$2, if made before the expiration of the applicant's license, a new license which shall entitle said person to practice dentistry in this state for a period of one year, and which license shall expire upon the following first day of May. Said board shall have no authority to issue an annual license to any person who is not a regularly licensed dentist, and who has not paid said license fee of \$2 on or before the date when his previous license expired. Every person who was a regularly licensed dentist and who failed to pay said annual license of \$2 before the expiration of his license, shall be considered as if no license had ever been issued to him, and before he can again practice dentistry in this state, shall make a new application therefor as in the first instance and pay the regular fee of \$25 therefor, except that he shall not be required to submit to any examination. All renewal fees collected under the provisions of this section shall be used exclusively for the prosecution of violators of this act and for expenses of collecting said fees. All moneys received under this act shall be deposited in some reliable bank in the name of the board, and shall be withdrawn only on the joint check of the president and secretary of the board. [Amendment approved April 6, 1909. Stats. 1909, p. 804. In effect immediately.]

§15. Any person shall be understood to be practicing dentistry within the meaning of this act who shall display a sign or in any way advertise himself as a dentist, or who shall, for a fee, salary or reward, paid directly or indirectly either to himself or to some other person, perform an operation of any kind upon, or treat diseases or lesions of, the human teeth or jaws, or correct malimposed positions thereof; but nothing in this act contained shall prohibit bona fide students of dentistry from operating in the clinical departments of the laboratory of a reputable dental college, or an unlicensed person from performing merely mechanical work upon inert matter in a dental laboratory or a licensed physician from practicing oral surgery or treating diseases of the mouth. [Amendment approved April 6, 1909. Stats. 1909, p. 807. In effect immediately.]

§§ 16, 17, 18. Repealed. [Amendment approved March 20, 1903. Stats. 1903, p. 325. In effect immediately.]

§19. Any person, company or association shall be guilty of a misdemeanor, and upon conviction thereof shall be punishable by imprisonment in the county jail not less than ten (10) days nor more than one (1) year, or by a fine of not less than one hundred (\$100) dollars nor more than one thousand (\$1000), or by both such fine and imprisonment, who (1) shall sell or barter or offer to sell or barter any dental degree or any certificate or transcript, made or purporting to be made, pursuant to the laws regulating the license and registration of dentists; or (2) shall purchase or procure by barter, any such diploma, certificate or transcript, with intent that the same shall be used as evidence of the holder's qualification to practice dentistry, or in fraud of the laws regulating such practice; or (3) shall with fraudulent intent, alter in a material regard any such diploma, certificate or transcript; or (4) shall use or attempt to use any such diploma, certificate or transcript, which has been purchased, fraudulently issued, counterfeited or materially altered, either as a license or color of license to practice dentistry, or in order to procure registration as a dentist; (5) or, shall practice dentistry under a false or assumed name; or (6) shall assume the degree of "doctor of dental surgery" of "doctor of dental medicine," or shall append the letters "D.D.S." or "D.M.D." to his or her name not having duly conferred upon him or her, by diploma from a recognized dental college or school legally empowered to confer the same, the right to assume said title; or shall assume any title, or append any letters to his or her name, with the intent to represent falsely that he or she has received a dental degree or license; or (7) shall in an affidavit, required of an applicant for examination, license, or registration, under this act, willfully make a false statement in a material regard; or, (8) shall engage in the practice of dentistry under any title or name without causing to be displayed in a conspicuous manner and in a conspicuous place in her or his office the name of each and every person employed in the practice of dentistry therein, together with the word mechanic after the name of each unlicensed person employed; or, (9) shall within ten days

after demand made by the secretary of the board, fail to furnish to said board the name and address of all persons practicing or assisting in the practice of dentistry in the office of said person, company or association, at any time within sixty (60) days prior to said notice, together with a sworn statement showing under and by what license or authority said person, company or association, and said employee are or have been practicing dentistry, but such affidavit shall not be used as evidence against such person, company or association in any proceeding under this section; or, (10) is practicing dentistry in the state without a license, or whose license has been revoked or suspended. [Amendment approved April 6, 1909. Stats. 1909, p. 805. In effect immediately.]

§ 20. It is hereby further provided, that the conferring of degrees and the bestowing of diplomas, by reputable dental colleges of this state, which have been indorsed by the board of dental examiners of California are not included in the penalties prescribed in section 19 of the said [act] of March 23, 1901, as amended by the act of March 20, 1903. [Amendment approved April 6, 1909. Stats. 1909, p. 801. In effect immediately.]

§ 21. All fines, penalties, or forfeitures, including the examination fee, imposed or collected for the violation of any of the foregoing provisions of this act, unless otherwise specified, shall be paid to the secretary and be by him turned into the general fund of the said board. All fines paid or collected for the violation of any of the provisions of this act shall be paid by the court, in which the conviction shall be had, to the secretary of the said board to be by him turned into the general fund of said board. Said board, or any member or officer, thereof, may prefer a complaint for violation of this act or any part thereof, before any court of competent jurisdiction, and may by its officers, counsel and agents, assist in presenting the law or facts at the trial. It shall be the duty of the district attorney of each county in this state to prosecute all violations of the aforesaid provisions of this act in their respective counties in which such violations occur. [Amendment approved April 6, 1909. Stats. 1909, p. 802. In effect immediately.]

§ 21½. Any dentist may have his license revoked or suspended by the board of dental examiners for any of the following causes:

(1) His conviction of a felony or misdemeanor involving moral turpitude, in which case the record of conviction or a certified copy thereof, certified by the clerk of the court, or by the judge in whose court the conviction is had, shall be conclusive evidence.

(2) For unprofessional conduct or for gross ignorance or inefficiency in his profession. Unprofessional conduct shall mean employing persons known as cappers, as steerers, to obtain business; the obtaining of any fee by fraud or misrepresentation; willfully betraying professional secrets; employing directly or indirectly any student or any suspended or unlicensed dentist to perform operations of any kind, or to treat lesions of the human teeth or jaws, or correct malimposed formations

thereof, except as heretofore provided in section thirteen; aiding or abetting any unlicensed person to practice dentistry unlawfully; habitual intemperance; gross immorality.

The proceedings to revoke or suspend any license under the first subdivision hereof, must be taken by the board on the receipt of a certified copy of the record of conviction. The proceedings under the second subdivision hereof may be taken upon the information of another. All accusations must be in writing, verified by some party familiar with the facts therein charged, and three copies thereof must be filed with the secretary of the board. Upon receiving the accusation the board shall, if it deem the complaint sufficient, make an order setting the same for hearing, at a specified time and place, and the secretary shall cause a copy of the order and of the accusation to be served upon the accused at least ten (10) days before the day appointed in the order for said hearing. The accused must appear at the time appointed in the order and answer the charges and make his defense to the same, unless for sufficient cause the board assign another day for that purpose. If he do not appear the board may proceed and determine the accusation in his absence. If the accused plead guilty or refuse to answer the charges, or upon the hearing thereof the board shall find them or any of them true, it may proceed to a judgment revoking his license or suspending it. The board and the accused may have the benefit of counsel, and the board shall have power to administer oaths, take the depositions of witnesses in the manner provided by law in civil cases, and to compel them to attend before it in person the same as in civil cases, by subpoena issued over the signature of the secretary and the seal of the board and in the name of the people of the state of California. Upon the revocation of any license, the fact shall be noted upon the records of the board of dental examiners and the license shall be marked as canceled, upon the date of its revocation. [Amendment approved April 6, 1909. Stats. 1909, p. 806. In effect immediately.]

§ 22. The members of the board of dental examiners shall make an annual report of its proceedings to the governor of California by the first of December of each year, together with an account of all moneys received and disbursed by them, pursuant to this act.

§ 23. Four members of said board of dental examiners shall constitute a quorum for the transaction of business at any meeting of the board.

§ 24. [Repealed April 6, 1909. Stats. 1909, p. 802. In effect immediately.]

This act took effect September 1, 1901, and all laws in conflict with it were repealed.

ACT 923.

An act to create the office of state dental surgeon, prescribing his duties, fix his manner of appointment, salary and term of office, and to make an appropriation for the expenses of his office.

[Approved April 16, 1909. Stats. 1909, p. 947.]

§ 1. The office of state dental surgeon is hereby created. It shall be the duty of the governor, on or before the tenth day of July, 1909, to appoint a skilled dental surgeon for the state of California to fill said office of state dental surgeon, who at the date of such appointment shall be a graduate in good standing of a recognized college of dental surgery, legally qualified to practice as such in this state, and shall hold said office for the period of four years from and after the date of qualification, provided, however, when a vacancy occurs in the office of state dental surgeon from whatever cause the governor shall fill by appointment said term for the unexpired part thereof only. The salary of said state dental surgeon shall be \$2,400 per annum, and shall be paid at the same time and in the same manner as are the salaries of other state officers.

§ 2. The duties of the state dental surgeon shall be to perform the dental services for the inmates of the various state hospitals. Said dental services shall be performed in an efficient and durable manner as possible, and shall consist of cement and amalgam fillings, treatment and extracting teeth, inserting artificial teeth on vulcanite plates, and perform such oral surgery operations as may be referred to him by the superintendents of the various state hospitals. No services shall be performed by the state dental surgeon for any officer or employee of any state institution, except in the case of extreme emergency.

§ 3. The state dental surgeon must visit every state hospital at least twice in each year, and shall at all times be under the supervision of the California state commission in lunacy.

§ 4. For the purpose of carrying out the provisions of this act the sum of three thousand five hundred (\$3,500) dollars is hereby appropriated to pay the traveling expenses of the state dental surgeon to the various state hospitals and for the purchase of operating and extracting instruments and such apparatus as may be needed for the making of plates, and such other expenses as may be required in the discharge of his duties.

§ 5. This act shall be in force and effect from and after July 1, 1909.

TITLE 135.**DESCENT AND DISTRIBUTION.****ACT 927.**

To regulate descents and distribution. [Stats. 1850, p. 219.]

Superseded by Civil Code, § 1386.

TITLE 136.**DIABLO CREEK.****ACT 932.**

To declare Diablo Creek in Contra Costa County navigable. [Stats. 1858, p. 127.]
Incorporated in Political Code, § 2349.

TITLE 137.**DISSECTION.****ACT 937.**

To promote the study of anatomy. [Stats. 1869-70, p. 405.]
This act provided for the surrender of dead bodies for dissection. It was superseded by Political Code, §§ 8093-8095.

TITLE 138.**DISTRICT ATTORNEYS.****ACT 942.**

Authorizing and directing district attorneys to bring suits to abate nuisances. [Stats. 1899, p. 103.]
Superseded by Political Code, § 4156.
See Penal Code, § 373a, and also *People v. McCue*, 22 Cal. Dec. 45.

ACT 943.

In relation to district attorneys, their assistants and clerks in cities and counties, and counties having a population of more than one hundred and twenty-five thousand. [Stats. 1891, p. 21.]
"Unconstitutional. (*Darcy v. Mayor*, 104 Cal. 642; *Ex parte Giambonini*, 112 Cal. 574.) Superseded by County Government Act, 1897, and by charter of San Francisco."—Code Commissioners' Note.

ACT 944.

Apportioning the fees between district attorneys and their successors. [Stats. 1865-66, p. 163.]
Amended 1865-66, p. 325.

"Superseded by County Government and other acts requiring officers to pay their fees into the county treasury."—Code Commissioners' Note.

ACT 945.

District attorneys, relating to fees of in certain counties. [Stats. 1871-72, p. 799.]

"Probably repealed by §§ 171, 177, 186 and 211 of the County Government Act, 1897, pp. 528, 527, 540, 568, fixing the salaries of district attorneys."—Code Commissioners' Note.

This act related to the counties of Butte, Inyo, Placer, and Shasta.

**TITLE 139.
DITCHES.**

ACT 950.

An act for the protection of the owners of ditches and flumes. [Approved March 16, 1889. Stats. 1889, p. 202.]

Citations. Cal. 149/551.

This act related to the liability of joint owners of ditches and flumes.

Codified in part by §§ 842, 843 of Civil Code, 1905. See note to § 842, Civil Code.

**TITLE 140.
DIVORCES.**

ACT 955.

Concerning divorces. [Stats. 1851, p. 186.]

Amended 1858, p. 70; 1869-70, p. 291. Supplemented 1857, p. 240. Superseded by provisions of Civil Code.

**TITLE 141.
DIXON.**

ACT 960.

Incorporating town of. [Stats. 1877-78, p. 712.]

Superseded by incorporation, in 1884, under Municipal Corporation Act of 1888.

**TITLE 142.
DOGS.**

Dogs killing sheep, liability for: See "Sheep," post.

ACT 965.

An act to protect sheep and cashmere and angora goats against the ravages of dogs.

[Approved March 13, 1866. Stats. 1865-66, p. 225.]

Dog tax.

§ 1. Every owner, claimant, or keeper of a dog or dogs at the age of four months or over, shall hereafter pay an annual tax on all dogs owned, claimed, or kept by him or her: for the first male dog, one dollar; for every additional male dog, two dollars; and for every female dog, three dollars.

Collection.

§ 2. It shall be the duty of the county, district, or township assessors, as the case may be, at the time of making their annual assessment of real estate and personal property, to ascertain by diligent inquiry and examination, the names of all persons owning, claiming, or keeping any dog or dogs, and they shall assess all such dogs in the amounts respectively, as provided in the first section of this act, to the person or persons owning, claiming, or keeping the same, and shall make lists and delivery thereof on their annual tax lists or assessment-rolls at the same time

and in the same manner as their lists and delivery of other personal property are made and delivered; and the proper officers are hereby empowered and required to collect such tax on dogs in the same mode and manner as other taxes are collected, and to pay over the same into the county school fund.

Ownership.

§ 3. Every dog kept or staying at any house shall be deemed sufficient evidence of ownership to authorize the assessor to return the person inhabiting the house as the owner of such dog; and any person sending his or her dog from house to house or from place to place in order to evade said tax shall pay double rates therefor; and every dog not so returned shall be deemed to have no owner, and may be lawfully killed by any person seeing the same run at large.

Damages.

§ 4. The owner or owners of any dog or dogs which shall worry, wound, or kill any sheep, cashmere or angora goats, shall be liable to the owner or possessor of such sheep, goat or goats, for the damages and costs of suit, to be recovered before any court having jurisdiction in the case.

Killing.

§ 5. Any person finding any dog or dogs, not on the premises of its owner, worrying, wounding, or killing any sheep, or cashmere or angora goats, may kill the same, and the owner thereof shall sustain no action for damages against any person so killing any dog or dogs under such circumstances.

"Superseded in part by Civil Code, § 8341, and probably not in force in any particular."—Code Commissioner's Note.

TITLE 143.

DORRIS BRIDGE, TOWN OF.

ACT 970.

Dorris Bridge, name changed to Alturas. [Stats. 1875-76, p. 513.]

TITLE 144.

DOWNIEVILLE.

ACT 975.

To incorporate. [Stats. 1863, p. 74.]

Amended 1863-64, p. 275; 1865-66, p. 642. Repealed 1901, p. 276.

TITLE 145.

DRAINAGE.

ACT 978.

An act to create a drainage district to be called Yolo basin drainage district, to promote drainage therein, and to provide for the management and control of said drainage district. [Approved April 21, 1909. Stats. 1909, p. 1024.]

ACT 979.

An act to create a drainage district to be called "Sacramento Drainage District," to promote drainage therein; to provide for the election and appointment of officers of said drainage district; refining the powers, duties and compensations of such officers and providing for the creation, division and management of reclamation, swamp land, levee, drainage and protection districts within said Sacramento drainage district, and providing for levying and collecting assessments upon the lands within said drainage district. [Stats. 1905, p. 443.]

Amended 1907, p. 786; 1907, p. 908.

ACT 980.

To promote drainage. [Stats. 1880, p. 123.]

Unconstitutional. (People v. Parks, 58 Cal. 624; Doane v. Well, 58 Cal. 824.)

ACT 981.

Creating Sacramento River drainage district, to establish a board of commissioners therefor and to define their powers and duties. [Stats. 1877-78, p. 987.]

ACT 982.

To provide for the organization and government of drainage districts, for the drainage of agricultural lands other than swamp and overflowed lands. [Stats. 1897, p. 334.]

Amended 1901, p. 554. Repealed 1903, p. 817.

Citations. Cal. 142/201.

ACT 983.

To provide a system of drainage for agricultural, swamp, and overflowed lands. [Approved March 3, 1881. Stats. 1881, p. 15.]

Amended 1897, p. 220.

Unconstitutional. (Hickey v. Stearns Rancho Co., 126 Cal. 151.)

Citations. Cal. 106/422, 425; 126/152; 144/216.

ACT 984.

To abolish the state drainage construction fund and directing the transfer of any balance remaining therein to the general fund. [Stats. 1893, p. 64.]

See post, Act 1282.

ACT 985.

An act to promote drainage.

[Approved March 18, 1885. Stats. 1885, p. 204.]

Amended 1891, p. 262; 1909, p. 25.

Citations. Cal. 126/152; 144/210, 211, 212, 218, 214, 216, 217.

Petition for drainage procedure. Publication.

§ 1. Whenever the owners of two-thirds of any body of land susceptible of one mode of drainage desire to drain the same, they may

present to the board of supervisors of the county in which the land, or the greater portion thereof, is situated, at a regular meeting of the board, a petition setting forth that they desire to adopt measures to drain the same, a description of the land, the number of acres in the proposed district, and the number of acres in each tract, and the names of the owners thereof, and names of three persons whom they desire to serve as trustees for the first three months; the petition must be verified by the affidavit of one of the petitioners, and must be published for four weeks next preceding the hearing thereof, in some newspaper published in the county in which the lands are situated, or if there is no newspaper published in the county, then it must be published in some newspaper having a general circulation in the county, together with a notice stating the date of the meeting of said board on which the petition will be heard, and directing all parties interested to appear on said date and show cause, if any they have, why said petition should not be granted, and an affidavit of such publication must be filed with the clerk of said board at or before the date of said hearing. [Amendment approved February 19, 1909. Stats. 1909, p. 25. In effect immediately.]

District lying in different counties.

§ 2. When a district is situated partly in different counties, the trustees must, after the petition has been granted, forward a copy thereof to the clerk of the board of supervisors of any county in which any portion of the district may lie, and the board to which the same is forwarded must not allow another district to be formed within such district, unless with the consent of the trustees thereof.

Lands improperly included. Boundaries to be defined.

§ 3. If the board of supervisors find upon the hearing of such petition that lands have been improperly included in such district, they may, before fixing the final boundaries, exclude from such district any land which may have been so included, or include any lands adjacent thereto, on petition of any owner of such lands presented at such time of hearing, as they may deem for the best interests of such district. If from the petition and evidence produced at such hearing the board finds that said petition should be granted, it must thereupon, by order, define the boundaries of said district and declare said district duly formed, and the persons named in said petition for the formation of such district, as such, to be the trustees thereof for the first three months, or, until their successors are appointed. [Amendment approved February 19, 1909. Stats. 1909, p. 26. In effect immediately.]

Recording petition.

§ 4. The petition for the formation of the district, together with the order of the board, defining its boundaries and forming the same, must be recorded in the office of the recorder of the county in which any of the lands of the district are situated. [Amendment approved February 19, 1909. Stats. 1909, p. 26. In effect immediately.]

By-laws, adoption of.

§ 5. After the approval of the petition the owners of lands embraced within the boundaries of the district, or those owning a majority in acreage thereof must adopt by-laws, not inconsistent with the laws of this state for the government and control of the affairs of the district, and for the future appointment of trustees. The by-laws thus adopted must be signed by the owners of lands in the district representing a majority in acreage thereof. By-laws thus adopted may be amended at any time in the same manner in which the original by-laws were adopted. [Amendment approved February 19, 1909. Stats. 1909, p. 26. In effect immediately.]

Recording by-laws.

§ 6. The by-laws and all amendments thereto must be filed for record in the office of the recorder in which the district was organized, and recorded in a book kept for the purpose of recording instruments in writing relating to reclamation or drainage districts. [Amendment approved February 19, 1909. Stats. 1909, p. 27. In effect immediately.]

Powers of trustees. Compensation of trustees.

§ 7. The board of trustees shall have power to elect one of its members president thereof and also a clerk; to employ engineers and others to survey, plan, locate and estimate the cost of the works necessary for the drainage of the lands of the district, and the land needed for a right of way, including drains, canals, sloughs, water-gates, embankments, watercourses and material for construction; to thereafter, at any time, in its discretion, modify or change such original plan or plans, or adopt new, supplemental or additional plan or plans, when, in its judgment, the same shall become necessary; to construct, maintain and keep in repair all works necessary to carry into effect the objects sought to be attained; and to do all other acts and things necessary or required for the drainage of the lands embraced in the district. And the several members of the board shall each be entitled to receive for actual and necessary services performed, and for expenses incurred by them, respectively, for and in the interest of the district, such compensation as the board may determine to be just and reasonable, and shall allow, and the same shall constitute an indebtedness of the district for which warrants of the district must be drawn and paid in the same manner and out of the same fund as other warrants of the district; provided, that no warrant thus drawn shall be valid until approved by the board of supervisors of the county which formed the district. [Amendment approved February 19, 1909. Stats. 1909, p. 27. In effect immediately.]

Plans and estimates.

§ 8. The board of trustees must report to the board of supervisors of the county, or if the district is situated in more than one county then to the board of supervisors of each county in which the district is situated, the plans of the work and estimates of the costs, together with the estimates of the incidental expenses of superintendence, repairs, etc.

Assessment commissioners.

§ 9. The board of supervisors of the county in which the district was formed must appoint three commissioners disinterested persons residing in the county in which the district or some part thereof is situated, and such commissioners must view and assess upon the lands situated in the district a charge proportionate to the whole expense, and to the benefit which will result from such work, which charges must be collected and paid into the county treasury either in cash or in regularly issued warrants of the district as hereinafter provided, and must be placed by the treasurer to the credit of the district, and paid out for the work of drainage upon the warrants of the trustees approved by the board of supervisors of the county. [Amendment approved February 19, 1909. Stats. 1909, p. 27. In effect immediately.]

Warrants, how paid.

§ 10. The warrants drawn by the trustees must, after they are approved by the board of supervisors, be presented to the treasurer of the county, and if they are not paid on presentation, like indorsements must be made thereon, and they must be registered in like manner as county warrants and paid in the order of their registration. All warrants from the date of their registration shall bear interest at the rate of six per cent per annum; provided, however, that warrants may be used in the payment of assessments made hereunder without regard to the order of registration. [Amendment approved February 19, 1909. Stats. 1909, p. 28. In effect immediately.]

Payments when district in different counties.

§ 11. If a district is situated partly in different counties the charges must be paid into the treasury of the county in which the particular tract may be situated.

Further assessment.

§ 12. If the original assessment is insufficient to provide for the complete drainage of the lands of the district, or if further assessments are from time to time required to provide for the protection, maintenance, and repairs of the works, the trustees must present to the board of supervisors by which the district was formed a statement of the work to be done and its estimated cost, and the board must make an order directing that the commissioners who made the original assessment, or other commissioners to be named in such order, to assess the amount of such estimated cost as a charge upon the lands in the district, which assessment must be made and collected in the same manner as the original assessment.

List of charges assessed. Equalization of assessments.

§ 13. The commissioners appointed by the board of supervisors must make a list of the charges assessed against each tract of land, and the list must contain:

1. A description of each tract assessed.
2. The number of acres in each tract.

3. The names of the owners of each tract, if known, and if unknown, that fact; but no mistake in the name of the owner, or supposed owner of the property assessed shall render the assessment thereof invalid.

4. The amount of the charge assessed against each tract.

The board of commissioners must, on the completion of such list, cause a notice to be published in some paper published in the county where such district is situated, and also have such notice posted in three places in such district, to the effect that the board of commissioners will, in ten days from the publication of such notice, meet (and they shall also name the time and place of such meeting) as a board of equalization for the purpose of equalizing assessments, and will continue in session as long as may be necessary, not to exceed ten days, at the end of which time, having equalized and adjusted such assessments, the list must then be filed as hereinafter provided. [Amendment approved February 19, 1909. Stats. 1909, p. 28. In effect immediately.]

Assessment list, where filed. Payments of charges. Unpaid assessments. Actions. Procedure.

§ 14. The list so made must be filed with the county treasurer of the county, or if the district is partly situated in different counties, then the original list must be filed in the county first in order in alphabetical arrangement, and copies thereof, certified by the commissioners, must be filed with the treasurers of each of the other counties. From and after the filing of the list, or certified copies thereof, the charges assessed upon any tract of land in the district constitute a lien thereon, and the list thus prepared must remain in the office of the treasurer for thirty days, or longer if ordered by the board of trustees, and during the time it so remains in the office of said treasurer any person may pay the amount of the charges assessed against any tract to the treasurer without costs, either in cash or in regularly issued warrants of the district; or, if so ordered by the board of trustees, said payments may be by installments which installments may be paid either in cash or in regularly issued warrants of the district; and if, at the end of thirty days, or of the longer period fixed by the trustees, all the charges, or all of any installments ordered by them, have not been paid, the treasurer must return the list to the board of trustees of the district, and all unpaid assessments shall bear legal interest from the date of the return of the lists to said board, and shall thereafter be collected and paid in separate installments, of such amounts, and at such times, respectively, as the board, from time to time, in its discretion, may, by order entered in its minutes, direct; and a cause of action for the collection of any such installments shall accrue at the expiration of twenty days from the date of the order directing its payment; provided, that if any such installment shall remain unpaid at the expiration of said twenty days, then the whole of the assessment against the land owned by the person failing to pay such installment shall become due and payable at once, and may, in the discretion of the board, be collected immediately, in one and the same action. The board of trustees of the district must commence actions for the collection of such delinquent installments, and delinquent assessments, with interest thereon, and costs, and for the enforce-

ment of the lien thereof on the land assessed, in the superior court of the county in which the land, or some portion of it, is situated, in which action all persons claiming any interest in said land upon which said assessment is levied, and any person necessary to a complete determination of the action, may be joined as defendants in said action. No person holding a conveyance from or under the person to whom the land was assessed or having a lien thereon, which conveyance or lien does not appear, of record in the proper office at the time of the commencement of the action, need be made a party to such action, and the judgment therein rendered, and the proceedings therein had, are as conclusive against the party holding such unrecorded conveyance or lien as if he had been a party to the action. Notice of the pendency of such action may be filed in the office of the county recorder of the county in which the land affected by said action is situated in the same manner and with like effect as in other actions affecting real property. When the name of any person, properly a defendant in any such action, as herein provided, is unknown to the said trustees such person may be joined in said action and be sued by a fictitious name, and if his true name is thereafter, and before final judgment, discovered or ascertained the same may be, thereafter, substituted for such fictitious name. Service of the summons in such action shall be made in the same manner as is provided by law for the service or publication of summons in other actions. Assessments on several tracts may be included in the same action, if listed to the same persons, and causes of action on separate assessments on the same land may be included in the same action. In all actions for the collection of delinquent assessments, the court may decree and adjudge a lien against each tract for the amount assessed against the same, and may order it to be sold, on execution or decree, as in other cases of sale of real estate on execution. In any action to enforce said lien or to determine the validity of the same, said list, duly executed by said commissioners, or a certified copy thereof shall be prima facie evidence of the matters therein contained, and that said commissioners were duly appointed and qualified, as required by law, and that they did view and assess upon the lands set forth in said list the charges therein contained, and that said charges are in proportion to the whole expense and the benefits which will result from the work of drainage for which said assessment was so levied. The judgment or decree must direct that the sale be made for lawful money of the United States. The board of trustees must pay the moneys collected to the county treasurer, who must place the same to the credit of the district. [Amendment approved February 19, 1909. Stats. 1909, p. 28. In effect immediately.]

Executing work.

§ 15. The work must be executed under the direction and in the manner prescribed by the board of trustees.

Account of expenditures.

§ 16. The board must keep accurate accounts of all expenditures, which accounts, and all contracts that may be made by them, are open to the inspection of the board of supervisors, and every person interested.

Purchases by trustees.

§ 17. The trustees may acquire, by purchase, all property necessary to carry out and maintain the system of drainage provided for.

Eminent domain.

§ 18. The trustees may acquire, by condemnation, the right of way for canals, drains, embankments, and other works necessary, and may take materials for the construction, maintenance, and repair thereof from lands outside of as well as in the limits of said district.

Same.

§ 19. The provisions of Title VII, Part III, of the Code of Civil Procedure are applicable to, and condemnation herein provided for must be made thereunder.

Drainage entirely by owners, procedure.

§ 20. Whenever any district of lands susceptible of one mode of drainage is entirely owned by parties who desire to drain the same, and to manage such drainage without the intervention of trustees or the establishment and adoption of by-laws, such parties may file the petition provided for in sections 1 and 2, and they must state therein that they intend to undertake such drainage on their own responsibility. If the petition is granted, the owners of the lands shall have all the rights, immunities and privileges possessed by boards of trustees, and in all proceedings the names of owners may be used instead of the names of trustees. [Amendment approved February 19, 1909. Stats. 1909, p. 30. In effect immediately.]

§ 21. This act shall take effect upon its passage.

ACT 986.

An act to promote the drainage of wet, swamp and overflowed lands, and to promote the public health in the communities in which they lie.

[Approved March 21, 1903. Stats. 1903, p. 354.]

§ 1. Whenever ten or more landholders owning parts of any body of wet, swamp or overflowed lands susceptible of drainage by a ditch or drain, or a system of ditches or drains, shall file with the board of supervisors of the county in which said lands, or a portion thereof, are situated, a petition for the establishment of such ditch or drain, or system of ditches or drains, for the draining of said body of lands, defining the boundaries of such body of lands and the location and courses of such ditch or drain, or system of ditches or drains, through said body of lands, and the lands through which it or they are to pass to their outlets, and shall give said supervisors a good and sufficient bond for the payment of all costs that may accrue provided said petition shall not be granted, said supervisors shall, within thirty days of the filing of said petition, appoint a day for the hearing of the same, which shall not be less than fifteen nor more than forty days from such appointment; and shall, also, cause to be published in some newspaper published and hav-

ing a general circulation in the county, a copy of said petition together with a notice by the clerk of said board of the time and place set for hearing said petition; said publication shall be in a daily or weekly newspaper and for at least two weeks next preceding the time set for said hearing.

§2. Said supervisors shall also direct the county surveyor to survey the line or lines of said proposed ditch or drain, or system of ditches or drains, taking notes of the descent of the land and the character thereof, and report to said board, on or before said day of hearing, the descent, if any, between the head and outlet of said ditch or ditches, together with a list of intermediate grades, the lands benefited by said proposed ditch or ditches, and such other information as may come under his notice upon the matter of such proposed location. In locating such ditches or drains, whenever practicable, they shall be located on section or subdivision lines, but the said surveyor may, in surveying the same, follow the lines of location, described in said petition or vary therefrom as he may deem for the greatest advantage of said lands and the best location of said ditch or ditches.

§3. Upon the hearing of said petition any person interested in the lands described therein, or the community in which the same are located, may appear and support or oppose the granting of said petition, and witnesses may be sworn and testify in reference thereto.

§4. If the supervisors shall, on hearing the petition, find that the construction of the ditch or drain, or system of ditches or drains, petitioned for (or as modified by the report of the surveyor) would be advisable, and beneficial to the lands described in the petition, or a smaller body lying within the same, and such body of lands so to be benefited constitute the lands of a farming community or neighborhood, or that the construction of said ditch or drain or system of ditches or drains, would be conducive to the health of the community or neighborhood in which they lie, then, the supervisors shall, in their discretion, grant said petition for the construction of said ditch or drain, or system of ditches or drains, as prayed for (or as modified by the report of the surveyor) and shall proceed to examine the lands affected thereby, and shall direct the surveyor to survey the same and set stakes every hundred feet, and to make a journal of the depth and width to be excavated at each of said stakes. If, upon the hearing, the said supervisors shall find the location of said ditch or ditches unadvisable, the petition shall be denied and the costs of the proceedings shall be collected from the petitioners or their bondsmen.

§5. After having made such examination of the lands so affected said supervisors shall then apportion the excavation of said ditch and the cost of location (including the cost of right of way, when necessary) and superintendence of construction by the surveyor, to the lands affected thereby, according to the benefits received, after giving notice to the owners of such lands of the time and place of making such appor-

tionment, and giving to each a hearing. The names of such owners may be taken from the last assessment-books of the county wherein such lands are situate, and such notice shall be in writing, delivered to each land owner resident upon such land so affected, or left at his place of residence with some competent person, at least ten days before the time set for said hearing, and to each land owner not resident upon such lands so affected, by depositing the same in the postoffice directed to him at his place of residence or address, at least twelve days before said time so set for said hearing, and in case the residence or postoffice address of such nonresident be not known, then by posting said notice in a prominent place on the lands so affected and owned by him, at least twelve days before the time set for said hearing. All notices provided for in this act shall be given by the clerk of said board of supervisors, by and under their direction and authority.

§ 6. After having completed said hearing and apportionment, the board shall then give notice in the same manner as provided in section 5, to all the land owners of the part of ditch apportioned to them, as described by the stakes and their numbers, and of the specifications of the ditch, and also, of the cost of location and superintendence of construction (and right of way, when necessary); and said notice shall also specify the time set for the completion of the work and the payment of the cost of location, superintendence and right of way.

§ 7. On the day set for the completion of the work, or as soon thereafter as is practicable, the county surveyor shall proceed to examine said ditch or ditches, and if, in his opinion, any portion thereof shall not be completed according to the specifications, he shall report the same to the board of supervisors, who shall fix a reasonable time within which the same shall be completed, and shall notify the person to whom said portion was apportioned to complete the same within such time. If not so completed, at the expiration of the time specified said board of supervisors shall advertise the construction of the same by posting notices for two weeks in three conspicuous places within the territory affected by said ditch. Upon the time specified in said notice said supervisors shall proceed to let the same to the lowest responsible bidder, who shall give such bonds as shall be required by said board, and shall proceed to complete such works in the time agreed upon. The board shall report the cost of such work to the county auditor, who shall cause the amount thereof to be entered on the tax-books of the county, and the same shall be a tax upon said lands, which amount shall be collected the same as other taxes, and paid to the person performing such work. The cost of location and supervision, and right of way, if not paid at the time required, shall also be reported in like manner to the county auditor and collected as a tax upon the lands affected and paid to the county treasurer.

§ 8. The county treasurer shall place such funds to the credit of each respective ditch fund and shall pay out the same on warrants drawn by the board of supervisors. The treasurer shall receive as compensa-

tion for his services, one per cent of all moneys by him disbursed under this act.

§ 9. The county surveyor shall superintend the construction of all ditches and drains constructed under the provisions of this act, and when constructed they shall be in charge of the officer having charge and supervision of the roads in the district in which they lie. The owners of lands to whom they have been apportioned, shall keep in repair such ditches in accordance with the apportionment, and if not so kept in repair, the board of supervisors shall direct the same to be done, and the cost thereof shall be a tax upon the land, to be collected as hereinbefore provided.

§ 10. Any person causing an encroachment or obstruction to any ditch or drain created under the provisions of this act, and failing to remove the same for the space of twenty-four hours after notice shall have been given to such person by the roadmaster, if he can be found in the county, otherwise by posting by him at or near the place of encroachment or obstruction, may be fined not exceeding two hundred dollars, or imprisoned not more than thirty days in the county jail, or by both such fine and imprisonment. The fines so collected shall be placed to the credit of the district road fund where such encroachment or obstruction is had, and proceedings for such offenses may be had before any court of competent jurisdiction.

§ 11. The provisions of this act shall not be construed so as to permit waters to be carried out of their natural course to augment other streams or drains, to the damage of the residents along the banks of the streams or drains so augmented.

§ 12. Whenever the board of supervisors cannot purchase, at a reasonable price, or procure the right of way, or procure the consent of all parties interested to join or connect with any existing ditches or outlets, the president of the board may proceed to condemn the same under the provisions of Title VII, Part III, of the Code of Civil Procedure, and amendments thereto, which are now existing or may hereafter be made.

§ 13. This act is not intended to supersede or repeal any other act for the construction or maintenance of ditches or for drainage purposes, but is intended as an independent and alternative means of constructing such ditches where most applicable or desirable to the parties interested.

§ 14. This act shall take effect and be in force from and after its passage.

ACT 987.

An act to provide for the organization and government of drainage districts, for the drainage of agricultural lands other than swamp and overflowed lands, and to provide for the acquisition or construction thereby of works for the drainage of the lands embraced within such districts.

[Approved March 20, 1903. Stats. 1903, p. 291.]

Amended 1909, p. 1061.

§ 1. Whenever fifty or a majority of the holders of title, or evidence of title as herein provided, to agricultural lands other than swamp and overflowed lands, which are susceptible of one general mode of drainage by the same system of works, desire to provide for the drainage of such lands, they may propose the organization of a drainage district under the provisions of this act, and when so organized, such district shall have the powers, rights and duties conferred, or which may be conferred by law, upon such drainage districts. The equalized county assessment-roll next preceding the presentation of a petition for the organization of a drainage district under the provisions of this act, shall be sufficient evidence of title for the purposes of this act; provided, that no person who has received or acquired title to land within such proposed district for the purpose of enabling him or her to join in such petition or to become an elector of said district, shall be allowed to sign such petition or to vote at any election to be held in such district under the provisions of this act. Such illegal signing, however, shall not invalidate such petition when there shall be found a sufficient number of other legal petitioners.

§ 2. In order to propose the organization of a drainage district, a petition shall be presented to the board of supervisors of the county in which the lands within the proposed district or the greater portion thereof, are situated, signed by the required number of holders of title, or evidence of title, to lands within such proposed district, which petition shall set forth and particularly describe the proposed boundaries of such district, and shall pray that the same be organized under the provisions of this act. The petitioners must accompany the petition with a good and sufficient bond, to be approved by the said board of supervisors, in double the amount of the probable cost of organizing such district, conditioned that the obligors will pay all the costs in case such an organization will not be effected. The petition shall be presented at a regular meeting of said board of supervisors, and shall have been published for at least two weeks before such presentation, in some newspaper printed and published in the county where the petition is presented, together with a notice stating the date of the meeting of said board at which the petition will be presented; and if any portion of the proposed district lies within another county, or counties, then said petition and notice shall be likewise published in a newspaper printed and published in each of such counties.

§ 3. When such petition is presented, the board of supervisors shall hear the same, and may adjourn such hearing from time to time not exceeding four weeks in all, and on the final hearing said board shall make such changes in the proposed boundaries as may be deemed advisable and shall define and establish such boundaries. But said board shall not modify said boundaries so as to exclude from such proposed district any territory which is susceptible of drainage by the same system of works applicable to the other lands in such proposed district; nor shall any lands which will not, in the judgment of said board, be benefited by drainage, by means of said system of works, be included

within such proposed district. Any person whose lands are susceptible of drainage by the same system of works, may, upon his application, in the discretion of said board, have such lands included within said proposed district. Upon such hearing of said petition, the board of supervisors, shall determine whether or not said petition complies with the requirements of sections one and two of this act, and for that purpose must hear all competent and relevant testimony offered in support or in opposition thereto. Such determination shall be entered upon the minutes of said board of supervisors.

§ 4. The right of appeal from said order to the superior court of the county where said petition is heard, is hereby given to any person interested, who is a party to the record; provided, that if more than one appeal be taken they shall be consolidated and tried together. Such appeal shall be taken within ten days after the entry of such order upon the minutes of the board of supervisors. The appeal shall be taken and heard in the same manner as appeals from justices' courts to the superior court, except as herein otherwise provided. Upon the appeal, the superior court may make and enter its judgment affirming, modifying, or reversing the order appealed from. Within ten days thereafter, the superior court must cause its remittitur to issue to said board of supervisors, and if said order of the board of supervisors is modified or reversed, the judgment of the superior court and its remittitur shall direct the board of supervisors what order it shall enter. Such remittitur shall be filed by the clerk of the board of supervisors, and at the first regular meeting of the board thereafter, it shall cause to be entered in its minutes the order as directed by said superior court. The appeal herein provided for shall be heard and determined within thirty days from the time of filing the notice of appeal.

§ 5. When, under the provisions of the preceding sections, the boundaries of the proposed district are defined and established, said board shall make an order dividing said district into three or five divisions, as nearly equal in size as practicable, which divisions shall be numbered consecutively, and one director who shall be an elector and a resident freeholder of the division, shall be elected, as hereinafter provided, by each division; provided, that when requested in the petition three directors who shall be residents, electors and freeholders of the district, shall be elected at large by the qualified electors of the district.

§ 6. Said board of supervisors shall then give notice of an election to be held in such proposed district for the purpose of determining whether or not the same shall be organized under the provisions of this act. Such notice shall designate a name for such proposed district, and describe the boundaries thereof and the boundaries of the precincts established therein, when more than one, together with a designation of the polling-place and board of election for each precinct; and said notice shall be published for at least three weeks previous to such election, in a newspaper published within the county in which the petition for the organization of the proposed district was presented; and if any portion

of such proposed district is within another county or counties, then such notice shall be published for the same length of time in a newspaper published in each of said counties. Such notice shall require the electors to cast ballots, which shall contain the words "Drainage District—Yes" or "Drainage District—No" or words equivalent thereto, and also the names of one or more persons (according to the divisions of the proposed district as prayed for in the petition and ordered by the board) to be voted for to fill the office of director. Such election shall be conducted as nearly as practicable in accordance with the general election laws of the state but no particular form of ballot shall be required.

§ 7. No person shall be entitled to vote at any election held under the provisions of this act unless he possesses all the qualifications required of electors under the general election laws of the state.

§ 8. The said board of supervisors shall, on the first Monday succeeding such election if then in session, or at its next succeeding general or special session, proceed to canvass the votes cast thereat, and if upon such canvass it appears that a majority of all the votes cast are "Drainage District—Yes" the board shall by an order entered in its minutes, declare such territory duly organized as a drainage district, under the name theretofore designated, and shall declare the persons receiving, respectively the highest number of votes for directors to be duly elected to such offices. [Amendment approved April 22, 1909. Stats. 1909, p. 1061.]

§ 9. Said board shall then cause a copy of such order, duly certified, to be immediately filed for record in the office of the county recorder of any county in which any portion of the lands embraced in such district are situated, and must also immediately forward a copy thereof to the clerk of the board of supervisors of each of said last mentioned counties and no board of supervisors of any county in which any portion of the lands embraced in such district are situated, shall, after the date of the organization thereof, allow another district to be formed including any portion of said lands, without the consent of the board of directors of the district in which they are situated. From and after such filing, the organization of the district shall be complete.

§ 10. Such election on organization may be contested by any person owning property within the proposed district liable to assessment. The directors elected at such election shall be made parties defendant. Such contest shall be brought in the superior court of the county where the petition for organization is filed; provided, that if more than one contest be pending they shall be consolidated and tried together. The court having jurisdiction shall speedily try such contest, and determine, upon the hearing, whether the election was fairly conducted and in substantial compliance with the requirements of this act, and enter its judgment accordingly. Such contest must be brought within twenty days after the canvass of the vote and declaration of the result by the board of supervisors. The right of appeal is hereby given to either party to the

record within thirty days from entry of judgment. The appeal must be heard and determined by the supreme court within sixty days from the time of filing the notice of appeal.

§ 11. The directors elected at the election hereinbefore provided for shall immediately enter upon their duties as such upon qualifying in the manner herein provided. Said directors shall hold office respectively until their successors are elected and qualified.

§ 12. The directors of any district created after the passage of this act, on the first Tuesday after their election, after they shall have qualified, shall meet and classify themselves by lot into two classes, as nearly equal in number as possible, and the term of office of the class having the greater number shall expire at the next general February election in this act provided for; and the term of office of the class having the lesser number shall terminate at the next general February election thereafter. After such classification, said directors shall organize as a board, shall elect a president from their number, and appoint a secretary, who shall each hold office during the pleasure of the board. The salary of the secretary and the amount of the bond to be given by him for the faithful performance of his duties shall be fixed by the board of directors.

§ 13. The board of directors shall hold regular meetings in their office on the first Tuesday in March, June, September and December, and such special meetings as may be required for the proper transaction of business; provided, that all special meetings must be ordered by a majority of the board by an order entered in the minutes specifying the business to be transacted. Three days' notice to any member not joining in the order must be given by the secretary, and only the business specified in the order must be transacted at such special meeting. All meetings of the board must be public, and a majority of members shall constitute a quorum for the transaction of business. A minute of all proceedings of the board shall be kept by the secretary, and all records of the board shall be open to public inspection during business hours. The board of directors shall, on the first Tuesday in March of each and every year, render, and immediately thereafter cause to be published, a verified statement of the financial condition of the district, showing particularly the receipts and disbursements of the last preceding year, together with the source of such receipts and purpose of such disbursements. Said publication shall be made at least once a week for two weeks, in some paper published in the county where the office of the board of directors of such district is situated.

§ 14. The board shall have the power and it shall be their duty, to manage and conduct the business and affairs of the district; make and execute all necessary contracts; to adopt a seal for the district to be used in the attestation of proper documents; provide for the payment, from the proper fund, of all the debts and just claims against the district; employ and appoint when necessary, engineers to survey, plan, locate, and estimate the cost of the works necessary for drainage and the land

needed for right of way, including drains, canals, sluices, water-gates, embankments and material for construction, and to construct, maintain, and keep in repair all works necessary for the purpose of drainage. The board and its agents and employees shall have the right to enter upon any land to make surveys, and may locate the necessary drainage works and the line for any canals, sluices, water-gates and embankments, and the necessary branches for the same, on any lands which may be deemed best for such location. Said board shall also have the right to acquire, hold and possess either by donation, purchase or condemnation, any land or other property, necessary for the construction, use, maintenance, repair, and improvement of any works required for the purpose of drainage as provided herein. The board may establish equitable by-laws, rules and regulations necessary or proper for carrying on the business herein contemplated, and generally may perform all such acts as shall be necessary to fully carry out the purposes of this act.

§ 15. The board of directors, when they deem it advisable for the best interests of the district and the convenience of the electors thereof, may at any time, but not less than sixty days before an election to be held in the district, change the boundaries of the divisions and election precincts of the district; provided, such changes shall be made to keep each division as nearly equal in area and population as may be practicable. Such change of boundaries of the division must be shown on the minutes of the board.

§ 16. In case of condemnation proceedings, the board shall proceed, in the name of the district, under the provisions of Title VII, Part III, of the Code of Civil Procedure, which said provisions are hereby made applicable for that purpose, and it is hereby declared that the use of the property which may be condemned, taken, or appropriated under the provisions of this act, is a public use, subject to regulation and control of the state in the manner prescribed by law.

§ 17. In each district organized as herein provided, an election shall be held on the first Wednesday in February, nineteen hundred and five, and on the first Wednesday of February of each second year thereafter, at which a board of directors for the district, as provided in section 5 of this act, shall be elected. The person receiving the highest number of votes for the office to be filled at such election is elected thereto. Within ten days after receiving their respective certificates of election, each of said persons shall qualify as such by taking and subscribing the official oath and filing a bond as herein provided. Each director shall execute an official bond in the sum of one thousand dollars, which shall be approved by the judge of the superior court of the county where the organization of the district was effected and shall be recorded in the office of the county recorder of such county, and then, together with his official oath, filed with the secretary of the board of directors. All official bonds herein provided for shall be in the form prescribed by law for the official bonds of county officers. If a vacancy shall occur in the office of director the same shall be filled by appointment by the

supervisors of the county where such district is organized. A director so appointed shall qualify within ten days after receiving notice of his appointment as in said act provided, if he were elected to such office and he shall hold such office only until the next regular election for said district and until his successor is elected and qualified.

§ 18. On the first Tuesday in March next following the election, the directors who shall have been elected at the general February election, shall meet and organize as a board, elect a president and appoint a secretary, who shall each hold office during the pleasure of the board. And the directors of districts now organized, who shall have been elected at the general February election of nineteen hundred and five, shall, on the first Tuesday in March next thereafter, when they meet to organize, first classify themselves by lot into two classes as nearly equal in number as possible. And the terms of office of the class having the greater number shall be two years; and the term of office of the lesser number shall be four years. The full term of office of directors is hereby fixed at four years. The office of the board of directors of any such district may be established by said board of directors at the county seat, or at some proper and convenient place within the district, but after the office is once established it shall not be changed without giving notice thereof by posting in three public places in the district and by publishing a similar notice for thirty days in some newspaper of general circulation published in the county where such district is organized.

§ 19. Fifteen days before any election held under this act, subsequent to the organization of any district, the secretary of the board of directors shall cause notices to be posted in three public places in each election precinct, of the time and place of holding the election, and shall also post a similar notice of the same in a conspicuous place in the office of the said board, specifying the polling-places of each precinct, and the names of the members of the boards of election, for each precinct. Prior to the time for posting such notices, the board must appoint for each precinct, from the electors thereof, one inspector and one judge and one clerk, who shall constitute a board of election for such precinct. If the board fail to appoint a board of election, or the members appointed, or any of them do not attend at the opening of the polls on the morning of election, the electors of the precinct present at that hour, may appoint the board, or supply the place of an absent member thereof. The board of directors must in its order appointing the board of election, designate the place within each precinct where the election must be held.

§ 20. The inspector is chairman of the election board, and may administer all oaths required in the progress of an election; and appoint judges and clerks, if, during the progress of the election, any judge or clerk cease to act. Any member of the board of election, or any clerk thereof, may administer and certify oaths required to be administered during the progress of an election. The board of election for each precinct must, before opening the polls, appoint two persons to act as clerks

of the election. Before opening the polls, each member of the board and each clerk must take and subscribe an oath to faithfully perform the duties imposed upon them by law. Any elector of the precinct may administer and certify such oath. The polls must be open at 9 o'clock A. M., and be kept open until 4:00 P. M., when the same must be closed. The provisions of the general election laws concerning the form of ballots to be used shall not apply to elections held under this act.

§ 21. Voting may commence as soon as the polls are opened, and may be continued during all the time the polls remain opened, and shall be conducted, as nearly as practicable, in accordance with the provisions of the general election laws in this state.

§ 22. As soon as all the votes are read off and counted, a certificate shall be drawn up on each of the papers containing the poll list and tallies, or attached thereto, stating the number of votes each one voted for has received, and designating the office to fill which he was voted for, which number shall be written in figures and in words at full length. Each certificate shall be signed by the clerk, judge and the inspector. One of said certificates with the poll list and the tally paper to which it is attached, shall be retained by the inspector, and preserved by him at least six months. The ballots shall be strung upon a cord or thread by the inspector, during the counting thereof, in the order in which they are entered upon the tally list by the clerks; and said ballots together with the other of said certificates, with the poll list and tally paper to which it is attached, shall be sealed by the inspector in the presence of the judges and clerks, and indorsed "Election returns of (naming the precinct) precinct" and be directed to the secretary of the board of directors and shall be immediately delivered by the inspector, or by some other safe and responsible carrier designated by said inspector, to said secretary, and the ballots shall be kept unopened for at least six months, and if any person be of the opinion that the vote of any precinct has not been correctly counted, he may appear on the day appointed for the board of directors to open and canvass the returns and demand a recount of the vote of the precinct that is so claimed to have been incorrectly counted.

§ 23. No list, tally paper, or certificate from any election, shall be set aside or rejected for want of form if it can be satisfactorily understood. The board of directors must meet at its usual place of meeting on the first Monday after each election to canvass the returns. If, at the time of meeting, the returns from each precinct in the district in which the polls were opened have been received, the board of directors must then and there proceed to canvass the returns; but if all the returns have not been received, the canvass must be postponed from day to day until the returns have been received, or until six postponements have been had. The canvass must be made in public and by opening the returns and estimating the vote of the district for each person voted for and declaring the result thereof.

§ 24. The secretary of the board of directors, must, as soon as the result is declared, enter in the records of such board, a statement of such result, which statement must show; (a) the whole number of votes cast in the district and in each precinct thereof if there be more than one precinct; (b) the names of the persons voted for; (c) the office to fill which each person was voted for; (d) the number of votes given in each precinct to each of such persons; (e) the number of votes given in each division for the office of director. The board of directors must declare elected the persons having the highest number of votes given for each office. The secretary must immediately make out and deliver to such person a certificate of election, signed by him, and authenticated with the seal of the board.

§ 25. In any district the board of directors thereof may, upon the presentation of a petition therefor, by a majority of the holders of title, or evidence of title, of said district, evidenced as above provided, order that on and after the next ensuing general election for the district, there shall be either three or five directors, as said board may order, and they shall be elected, by the district at large, or by divisions, as so petitioned and ordered; and after such order such directors shall be so elected.

§ 26. The legal title to all property acquired under the provisions of this act shall immediately and by operation of law vest in such drainage district, and shall be held by such district in trust for and is hereby dedicated and set apart to the uses and purposes set forth in this act. And said board is hereby authorized and empowered to hold, use, acquire, manage, occupy, and possess said property as herein provided. The said board is hereby authorized and empowered to take conveyances or other assurances for all property acquired by it under the provisions of this act, in the name of such drainage district, to and for the uses and purposes herein expressed, and to institute and maintain any and all actions and proceedings, suits at law or in equity, necessary or proper in order to fully carry out the provisions of this act, or to enforce, maintain, protect, or preserve any and all rights, privileges and immunities created by this act, or acquired in pursuance thereof. And in all courts, actions, suits, or proceedings, the said board may sue, appear, and defend in person or by attorneys, and in the name of such drainage district.

§ 27. For the purpose of constructing necessary conduits, drains, sluices, water-gates, embankments and all works necessary for the purpose of drainage, and acquiring the necessary property and rights therefor, and otherwise carrying out the provisions of this act, the board of directors of any such district must, as soon after such district has been organized as may be practicable, and also whenever thereafter the construction fund has been exhausted by expenditures as herein authorized therefrom, and it is necessary to raise additional money for said purposes, estimate and determine the amount of money necessary to be raised. And thereafter said board shall immediately call a special elec-

tion, at which shall be submitted to the electors of such district the question whether or not the bonds of said district shall be issued in the amount so determined. Notice of such election must be given by posting notices in three public places in each election precinct in said district for at least twenty days, and also by publication of such notice in some newspaper published in the county where the office of the board of directors of such district is required to be kept, once a week for at least three successive weeks. Such notices must specify the time of holding the election, the amount of bonds proposed to be issued; and said election must be held and the result thereof determined and declared in all respects as nearly as practicable in conformity with the provisions of this act governing the election of officers; provided that no informalities in conducting such an election shall invalidate the same, if the election shall have been otherwise fairly conducted. At such election the ballots shall contain the words "Bonds—Yes," or "Bonds—No," or words equivalent thereto. If a majority of the votes cast are "Bonds—Yes," the board of directors shall cause bonds in said amount to be issued; if a majority of the votes cast at any bond election are "Bonds—No," the result of such election shall be so declared and entered of record. Whenever thereafter, a petition of the character hereinbefore provided for in this section, is presented to the board, it shall so declare of record in its minutes, and shall thereupon submit such questions to said electors in the same manner and with like effect as at such previous election.

§ 28. All bonds issued under the provisions of this act shall be payable in gold coin of the United States, in ten series as follows, to wit: On the first day of January after the expiration of eleven years, five per cent of the whole number of said bonds; on the first day of January, after the expiration of twelve years, six per cent; on the first day of January after the expiration of thirteen years, seven per cent; on the first day of January after the expiration of fourteen years, eight per cent; on the first day of January after the expiration of fifteen years, nine per cent; on the first day of January after the expiration of sixteen years, ten per cent; on the first day of January after the expiration of seventeen years, eleven per cent; on the first day of January after the expiration of eighteen years, thirteen per cent; on the first day of January after the expiration of nineteen years, fifteen per cent; and on the first day of January after the expiration of twenty years, sixteen per cent; that the several enumerated percentages being of the entire amount of the bond issue, but each bond must be made payable at a given time for its entire amount and not for a percentage. Said bonds shall bear interest at the rate of five per cent per annum, payable semi-annually, on the first day of January and July of each year. The principal and interest shall be payable at the place designated therein. Said bonds shall be each of the denomination of not less than one hundred dollars nor more than five hundred dollars; shall be negotiable in form, signed by the president and secretary, and the seal of the board of directors shall be affixed and the bonds of each issue shall be

numbered consecutively, and bear date at the time of their issue. Coupons for the interest shall be attached to each bond, signed by the secretary. Said bonds shall express on their face that they were signed by authority of this act, stating its title and date of approval, and shall also so state the number of the issue of which such bonds are a part. The secretary shall keep a record of the bonds sold, their number, the date of sale, the price received, and the name of the purchaser.

§ 29. The board may sell said bonds from time to time in such quantities as may be necessary and most advantageous, to raise money for the construction of said drains and works, the acquisition of said property and rights, and otherwise to fully carry out the objects and purposes of this act. Before making any sale the board shall, at a meeting, by resolution, declare its intention to sell a specified amount of the bonds, and the day and hour and place of such sale, and shall cause such resolution to be entered in the minutes, and notice of the sale to be given, by publication thereof at least three weeks in some newspaper published in the county where the office of the board of directors is located, and in any other newspaper, at its discretion. The notice shall state that sealed proposals will be received by the board at their office, for the purchase of bonds, till the day and hour named in the resolution. At the time appointed the board shall open the proposals, and award the purchase of the bonds to the highest responsible bidder; provided, however, that they may reject all bids. Said board shall in no event sell any of the said bonds for less than the par value thereof.

§ 30. Any bonds issued under the provisions of this act, shall be a lien upon the property of the district and the lien for the bonds of any issue shall be a preferred lien to that for any subsequent issue. Said bonds, and the interest thereon, shall be paid by revenue derived from an annual assessment upon the real property of the district; and all the real property in the district shall be and remain liable to be assessed for such payments as hereinafter provided.

§ 31. In case the money raised by the sale of bonds issued be insufficient or in case the bonds be unavailable for the completion of the plan of drainage and works adopted, and additional bonds be not voted, it shall be the duty of the board of directors to provide for the completion of said plan by levy of assessments therefor; provided, however, that such levy of assessments shall not be made except first an estimate of the amount required for such purposes has been made by said board, and the question as to the making of said levy submitted to a vote of the electors of the district. Before such question is submitted, the order of submission shall be entered in the minutes of the board, stating the amount to be levied and the purpose therefor, and if submitted at a special election said order shall, in addition, fix the day of election. Notice of such election must be given by posting notices in three public places in each election precinct in said district for at least twenty days, and also by publication of such notice in some newspaper published

in the county where the office of the board of directors of such district is required to be kept, once a week for at least three successive weeks. Such notices must specify the time of holding the election, and the amount of assessment proposed to be levied. Said election must be held and the result thereof determined and declared in all respects as nearly as practicable in conformity with the provisions of this act governing the election of officers; provided, that no informalities in conducting such an election shall invalidate the same, if the election shall have been otherwise fairly conducted. At such election the ballots shall contain the words "Assessment—Yes," or "Assessment—No," or words equivalent thereto. If a majority of the votes cast are "Assessment—Yes," the board of directors shall proceed in the manner prescribed in sections 40-43 herein provided for raising funds for the annual requirements; if a majority of the votes cast are "Assessment—No," the result of such election shall be so declared and entered of record.

§ 32. Whenever a district organized under the provisions of this act, has outstanding bonds, coupons, or other evidences of indebtedness, the payment thereof may be provided for by the issuance of new bonds, in the manner hereinafter prescribed.

§ 33. In order to propose the funding of such bonds, coupons, or other evidences of indebtedness a petition shall be presented to the board of directors of such drainage district, signed by a majority in number of holders of title or evidences of title to real property in such district, which petition shall set forth the amount of bonds, coupons, or other evidences of indebtedness proposed to be funded, together with a general description of same, also the total amount of the bonds sought to be issued (provided, that said amount shall in no case be greater than the total amount of bonds, coupons, and other evidences of indebtedness than outstanding and sought to have funded), together with a full and complete statement of the purposes for which such bonds are to be used. On presentation of such petition, the same shall be entered in full on the minutes of the board.

§ 34. Immediately after the recording of said petition, the board shall call a special election, at which shall be submitted to the electors of such district the question whether or not the bonds of such district in the amount set forth in said petition shall be issued. Notice of such election must be given by posting notices in three public places in each election precinct in said district for at least twenty days, and also by publication of such notice in some newspaper published in the county where the office of the board of directors of such district is required to be kept, once a week for at least three successive weeks before such election. Such notice must specify the time of holding the election, the amount of bonds proposed to be issued, the amount of bonds, coupons or other evidences of indebtedness proposed to be funded, together with a general description of the same. Said election shall be held and the result thereof determined and declared in all respects as nearly as practicable in conformity with the provisions governing the

election of officers; provided, that no informalities in conducting such an election shall invalidate the same, if the election shall have been otherwise fairly conducted. At such election, the ballots shall contain the words "Bonds—Yes" or "Bonds—No" or words equivalent thereto. If two-thirds of the votes cast are "Bonds—Yes" the board of directors shall cause bonds in said amount to be issued. If more than one-third of the votes cast at such election are "Bonds—No," the result of such election shall be so declared. The result in either case shall be duly entered of record.

§ 35. If said bonds are directed to be issued as herein provided for, the board of directors shall cause the same to be issued. Said bonds shall be made payable in gold coin of the United States, in twenty series, as follows, to wit: On the first day of January after the expiration of twenty years, five per cent of the whole amount of said bonds, and on the first day of January of each year thereafter, an equal amount of such bonds until all shall have been finally paid; that is, five per cent of the whole issue of bonds—not five per cent of each bond, each being wholly payable when due. Said bonds shall bear interest at the rate of five per cent per annum, payable semi-annually on the first day of January and July of each year. They shall be negotiable in form, and shall be of denominations of not less than \$100 nor more than \$500. Said bonds shall in all respects conform to the form of bonds prescribed hereinbefore.

§ 36. It shall be unlawful to sell or exchange any of the bonds as herein provided for less than their par value.

§ 37. When bonds issued under section 35 of this act shall be duly executed, they shall be deposited with the treasurer of the county wherein the district was organized, who is hereby authorized and charged with the duty of receiving the same, and his receipt shall be taken therefor, and he shall be charged with the same on his official bond, and shall have no power to deliver the same in exchange for any bonds or indebtedness proposed to be funded until the bonds or evidence of indebtedness proposed to be funded shall have been surrendered to him, and he shall have been ordered by the board of directors of the district, by an order duly entered on their records to make such delivery. When such bonds have been exchanged for other bonds, coupons, or other evidences of indebtedness, the said treasurer shall at once cancel such other bonds, coupons, or other evidences of indebtedness by writing across the face thereof "Canceled" and the date of cancellation, and report the same with his next regular report hereinafter provided for to the board of directors of the district designating the bond, coupon, or other evidence of indebtedness, so that it can be identified, the date of cancellation, and the person from whom it was received, together with the amount paid therefor, or the terms of exchange, in case there is an exchange.

§ 38. When said bonds are issued for the purpose of sale to the highest bidder, the board may sell said bonds from time to time, in such

quantities as may be necessary and most advantageous, to raise money to pay bonds, coupons, or other evidences of indebtedness of the district which were outstanding at the time of the filing of said petition, and generally described therein. Resolution of intention must be declared, and notice given, and the sale conducted in the manner prescribed in section 29 of this act for the sale of original bonds. Said bonds shall in no event be sold for less than their par value including accrued interest. All moneys realized from the sale of bonds, issued under the provisions of this section, shall be paid into the hands of the said treasurer, and by him kept in a separate fund, known as the funding fund, and shall be applied exclusively to the payment of bonds, coupons, or other evidences of indebtedness of the district outstanding at the time of filing of the said petition, and described therein.

§ 39. The bonds issued as herein provided for may be exchanged, at not less than their par value, including accrued interest, for any of the indebtedness set out and described in the notice of the election authorizing the issuance of said refunding bond. A contract for such exchange may be made by the board of directors upon such terms as said board may deem advisable; provided, that they must receive not less than par value for the bonds so exchanged.

§ 40. The board of directors must, on or before the first meeting of the board of supervisors in September of each year, furnish the supervisors and the auditor of the county wherein the district is situated, or if such district is not entirely within one county, then as hereinafter provided, to the supervisors and auditors of each county in which any portion of the district is situated, an estimate in writing of the amount of money needed for the purposes of the district for the ensuing fiscal year. This amount must be sufficient to raise the annual interest on the outstanding bonds, to pay the estimated cost of repairs, the incidental expenses of the district, and in any year in which any bonds shall fall due, an amount sufficient to pay the principal of the outstanding bonds as they mature.

§ 41. If such district is in more than one county the total estimate as provided for in the preceding section shall be divided by the board of directors in proportion to value of the real property of the district in each county. This value must be determined from the equalized values of the last assessment-rolls of such counties. When such division of the estimate has been made, the board shall furnish the supervisors and auditors of the respective counties a written statement of that part of the estimate apportioned to that county.

§ 42. The board of supervisors of each county wherein is situated a district or any part thereof organized under the provisions of this act, must, annually, at the time of levying county taxes, levy a tax to be known as the "— (name of district) drainage district tax," sufficient to raise an amount reported to them as herein provided, by the board of directors. The supervisors must determine the rate of such tax by de-

ducting fifteen per cent for anticipated delinquencies from the total assessed value of the real property of the district within the county as it appears on the assessment-roll of the county, and then dividing the sum reported by the board of directors as required to be raised by the remainder of such total assessed value.

§ 43. The tax so levied shall be computed and entered on the assessment-roll by the county auditor, and if the supervisors fail to levy the tax as provided in the preceding section, then the auditor must do so. Such tax shall be collected at the same time and in the same manner as state and county taxes, and when collected shall be paid into the county treasury for the use of said district.

§ 44. The provisions of the Political Code of this state prescribing the manner of levying and collecting taxes and the duties of the several county officers with respect thereto, are, so far as they are applicable and not in conflict with the specific provisions of this act, hereby adopted and made a part hereof. Such officers shall be liable upon their several official bonds for the faithful discharge of the duties imposed upon them by this act.

§ 45. If the district is in more than one county, the treasury of the county wherein the district was organized shall be the repository of all the funds of the district. For this purpose the treasurers of any other counties wherein is situated a portion of said district, must, at any time, not oftener than twice each year, upon the order of the board of directors, settle with said board and pay over to the treasurer of the county where the district was organized, all moneys in their possession belonging to the district. Said last-named treasurer is authorized and required to receive and receipt for the same, and to place the same to the credit of the district. He shall be responsible upon his official bond for the safekeeping and disbursement, in the manner herein provided, of these and all other moneys of the district held by him.

§ 46. The following funds are hereby created and established, to which the moneys properly belonging shall be apportioned by the treasurer, to wit: Bond fund, construction fund, general fund, funding fund.

§ 47. The treasurer shall pay out of the same only upon warrants of the board of directors, signed by the president and attested by the secretary. The treasurer shall report in writing at each regular meeting of the board of directors and as often thereafter as requested by the board, the amount of money in the fund, the amount of receipts since his last report, and the amounts paid out; such reports shall be verified and filed with the secretary of the board.

§ 48. Upon the presentation of the coupons due, to the treasurer, he shall pay the same from the bond fund. Whenever said fund shall amount to the sum of ten thousand dollars in excess of an amount sufficient to meet the interest coupons due, the board of directors may

direct the treasurer to pay such an amount of said bonds not due as the money in said fund will redeem, at the lowest value at which they may be offered for liquidation, after advertising in the manner hereinbefore provided for the sale of bonds, for sealed proposals for the redemption of said bonds. Said proposals shall be opened by the board in open meeting, at a time to be named in the notice, and the lowest bid for said bonds must be accepted; provided, that no bond shall be redeemed at a rate above par. In case the bids are equal, the lowest numbered bond shall have the preference. In case none of the holders of said bonds shall desire to have the same redeemed, as herein provided for, said money shall be invested by the treasurer, under the direction of the board, in United States bonds, or the bonds of the state, which shall be kept in said "bond fund" and may be used to redeem said district bonds whenever the holders thereof may desire.

§ 49. After adopting a plan for such conduits, drains, pumping plants, water-gates and other works as in this act provided for, the board of directors shall give notice by publication thereof not less than twenty days in one newspaper published in each of the counties composing the district (provided, a newspaper is published therein) and in such other newspapers as they may deem advisable, calling for bids for the construction of such work, or of any portion thereof; if less than the whole work is advertised, then the portion so advertised must be particularly described in such notice. Said notice shall set forth that plans and specifications can be seen at the office of the board, and that the board will receive sealed proposals therefor, and that the contract will be let to the lowest responsible bidder, stating the time and place for opening said proposals, which, at the time and place appointed shall be opened in public; and as soon as convenient thereafter the board shall let said work, whether in portions or as a whole, to the lowest responsible bidder; or they may reject any or all bids and readvertise for proposals, or may proceed to construct the work under their own superintendence. Contracts for the purchase of material shall be awarded to the lowest responsible bidder. Any person or persons to whom a contract may be awarded shall enter into a bond, with good and sufficient sureties, to be approved by the board, payable to said district for its use for fifty per cent of the amount of the contract price, conditioned for the faithful performance of said contract. The work shall be done under the direction and to the satisfaction of the engineer, and be approved by the board.

§ 50. No claim shall be paid by the treasurer until allowed by the board, and only upon a warrant signed by the president, and countersigned by the secretary.

§ 51. The cost and expense of purchasing and acquiring property and constructing the works and improvements herein provided for, shall be wholly paid out of the construction fund.

§ 52. The board of directors shall have power to construct the works necessary for drainage purposes across any stream of water, watercourse,

street, avenue, highway, railway, canal, ditch, or flume which the route of said conduits or drains may intersect or cross, in such manner as to afford security for life and property; but said board shall restore the same, when so crossed or intersected, to its former state as near as may be, or in such manner as not to have impaired unnecessarily its usefulness; and every company whose railroad, and the board of supervisors, where any public highway shall be intersected or crossed by said works, shall unite with said board in forming said intersections and crossings, and grant the privileges aforesaid; and if such railroad company, or said board of supervisors, or the owners and controllers of the said property, thing, or franchise so to be crossed, and the said board cannot agree upon the amount to be paid therefor, or the points or the manner of said crossings or intersections, the same shall be ascertained and determined in all respects as is herein provided in respect to the taking of property by condemnation. The right of way is hereby given, dedicated, and set apart, to locate, construct and maintain said works over and through any of the lands which are now or may be the property of this state.

§ 53. Each member of the board of directors shall receive three dollars per day for each day's attendance at the meetings of the board, and actual and necessary expenses while engaged in official business under the order of the board.

§ 54. No director or any other officer named in this act shall in any manner be interested, directly or indirectly in any contract awarded or to be awarded by the board, or in the profits to be derived therefrom; and for any violation of this provision, such officer shall be deemed guilty of a misdemeanor, and such conviction shall work a forfeiture of his office, and he shall be punished by a fine not exceeding five hundred dollars or by imprisonment in the county jail not exceeding six months, or by both such fine and imprisonment.

§ 55. The board of directors may at any time, when in their judgment it may be deemed advisable call a special election and submit to the qualified electors of the district the question, whether or not a special assessment shall be levied for the purpose of raising money to be applied to any of the purposes provided in this act. Such election must be called upon the notice prescribed and the same shall be held and the result thereof determined and declared in all respects in conformity with the provisions of section 27 of this act. The notice must specify the amount of money proposed to be raised and the purpose for which it is intended to be used. At such elections the ballots shall contain the words "Assessment—Yes" or "Assessment—No." If two-thirds or more of the votes cast are "Assessment—Yes," the board shall proceed in the manner hereinbefore prescribed for raising the annual funds by taxation. When collected, the money shall be paid into the district treasury for the purpose specified in the notice of such special election.

§ 56. The board of directors shall have no power to incur any debt or liability whatever, either by issuing bonds or otherwise, in excess of the

express provisions of this act; and any debt or liability incurred in excess of such express provisions shall be and remain absolutely void; except for the purposes of organization, or for any of the purposes of this act, the board of directors may, before the collection of the first assessment, incur an indebtedness not exceeding in the aggregate the sum of two thousand dollars, and may cause warrants of the district to issue therefor, bearing interest at seven per cent per annum.

§ 57. The rights of way, ditches, drains, conduits, flumes, pipe-lines, dams, reservoirs, pumping plants, and other property of like character belonging to any drainage district shall not be taxed for state and county or municipal purposes.

§ 58. The board of directors shall within thirty days after the issue of any bonds herein provided for bring an action in the superior court of the county wherein is located the office of such board, to determine the validity of any such bonds. Such action shall be in the nature of a proceeding in rem, and jurisdiction of all parties interested may be had by publication of summons for at least once a week for three weeks in some paper of general circulation published in the county where the action is pending, such paper to be designated by the court having jurisdiction of the proceedings. Jurisdiction shall be complete within thirty days after the full publication of such summons in the manner herein provided. Anyone interested may, at any time before the expiration of said thirty days, appear and by proper proceedings contest the validity of such bonds, and may in the same action or proceeding contest the validity of any bonds, coupons, or other evidences of indebtedness referred to in the petition for funding and proposed to be funded, and if any such bonds, coupons, or evidences of indebtedness be shown to be invalid, then the same shall only be funded for the amount of such proportion thereof as equals the fair and reasonable value of whatever the district may have received in consideration therefor, together with unpaid interest thereon, and the amount of such proportion shall be determined and adjudicated by the court in said action or proceeding. Such action shall be speedily tried and judgment rendered declaring such bonds so contested either valid or invalid. Either party shall have the right to appeal at any time within thirty days after the entry of such judgment, which appeal must be heard and determined within three months from the time of taking such appeal.

§ 59. If no such proceeding shall have been taken by the board of directors, then at any time after thirty days and within ninety days after the issue of any bonds under the provisions of this act, any district assessment payer may bring an action in the superior court of the county wherein the office of the board of directors is located, to determine the validity of any such bonds. The board of directors shall be made parties defendant and service of summons shall be made on the members of the board personally, if they can be found within the state; if not, then by publication for three weeks in some newspaper, of gen-

eral circulation within the county wherein the office of the board of directors is located, such newspaper to be designated by the court having jurisdiction. Before such publication can be had, an affidavit, in the usual form shall be made, showing such facts. Said board shall have the right to appear and contest such action. Notice of said action shall be given by publication of summons therein in the same manner and for the same time as required in the preceding section hereof in actions brought by the publication of such summons in the manner herein provided. Any district assessment payer or anyone interested may appear and defend said action, and thereafter the same proceedings shall be had in such action as are hereinbefore provided for in the preceding section hereof in actions brought by the board of directors, and the same matters determined and adjudicated by the court therein. Such action shall be speedily tried, with the right of appeal to either party, within the time and manner herein provided for the bringing of actions by the board to determine such matters. Such appeal shall be heard and determined within three months from the time of taking such appeal.

§ 60. At the hearing of such proceedings the court shall hear and determine the sufficiency of all proceedings.

§ 61. If more than one action shall be pending at the same time concerning similar contests in this act provided for, they shall be consolidated and tried together.

§ 62. The court hearing any of the contests herein provided for, in inquiring into the regularity, legality, or correctness of such proceedings, must disregard any error, irregularity or omission which does not affect the substantial rights of the parties to said action or proceeding. The rules of pleading and practice provided by the Code of Civil Procedure, which are not inconsistent with the provisions of this act, are applicable to all actions or proceedings herein provided for. The costs of any hearing or contest herein provided for may be allowed and apportioned between the parties or attached to the losing party, in the discretion of the court.

§ 63. No contest of any matter or thing herein provided for shall be made other than within the time and manner herein specified.

§ 64. The boundaries of any drainage district now organized or hereafter organized under the provisions of this act, may be changed, and tracts of land which were included within the boundaries of such district at or after its organization under the provisions of this act, may be excluded therefrom, in the manner herein prescribed; but neither such change of the boundaries of the districts nor such exclusion of lands from the district shall impair or affect its organization, or its right in or to property, or any of its rights or privileges of whatever kind or nature; nor shall it affect, impair, or discharge any contract, obligation, lien, or charge for or upon which said district was or may become liable or

chargeable, had said change of its boundaries not been made, or had not such land been excluded from the district.

§ 65. The owner or owners in fee of one or more tracts of land which constitute a portion of a drainage district, may, jointly or severally, file with the board of directors of the district a petition, praying that such tract or tracts, and any other tracts contiguous thereto, may be excluded and taken from said district. The petition shall state the grounds and reasons upon which it is claimed that such lands should be excluded, and shall describe the boundaries thereof, and also the lands of such petitioner, or petitioners which are included within such boundaries; but the description of such lands need not be more particular or certain than is required when the lands are entered in the assessment-book by the county assessor. Such petition must be acknowledged in the same manner and form as is required in the case of a conveyance of land, and the acknowledgment shall have the same force and effect as evidence as the acknowledgment of such a conveyance.

§ 66. The secretary of the board of directors shall cause a notice of the filing of such petition to be published for at least two weeks in some newspaper published in the county where the office of the board of directors is situated, and if any portion of such territory to be excluded lie within another county or counties, then said notice shall be so published in a newspaper published within each of said counties; or, if no newspaper be published therein, then by posting such notice for the same time in at least three public places in said district, and in case of the posting of said notices, one of said notices must be so posted on the lands proposed to be excluded. The notice shall state the filing of such petition, the names of the petitioners, a description of the lands mentioned in said petition, and the prayer of said petition; and it shall notify all persons interested in, or who may be affected by such change of the boundaries of the district, to appear at the office of said board at a time named in said notice, and show cause, in writing, if any they have, why the change of the boundaries of said district, as proposed in said petition, should not be made. The time to be specified in the notice at which they shall be required to show cause shall be the regular meeting of the board next after the expiration of the time for the publication of the notice.

§ 67. The board of directors, at the time and place mentioned in the notice, or at the time or times to which the hearing of said petition may be adjourned, shall proceed to hear the petition, and all evidence of proofs that may or shall be introduced by or on behalf of the petitioner or petitioners, and all objections to such petition that may or shall be presented in writing by any person showing cause as aforesaid, and all evidence and proofs that may be introduced in support of such objections. Such evidence shall be taken down, in shorthand, and a record made thereof and filed with the board. The failure of any person interested in said district, other than the holders of bonds thereof outstanding

at the time of the filing of said petition with said board, to show cause, in writing, why the tract or tracts of land mentioned in said petition should not be excluded from said district, shall be deemed and taken as an assent by him to the exclusion of such tract or tracts of land, or any part thereof, from said district; and the filing of such petition with said board, as aforesaid, shall be deemed and taken as an assent by each and all of such petitioners to the exclusion from such district of the lands mentioned in the petition, or any part thereof. The expenses of giving said notice and of the aforesaid proceedings shall be paid by the person or persons filing such petition.

§ 68. If, upon the hearing of any such petition, no evidence or proofs in support thereof be introduced, or if the evidence fail to sustain said petition, or if the board deem it not for the best interests of the district that the lands, or some portion thereof, mentioned in the petition should be excluded from the district, the board shall order that said petition be denied as to such lands; but if the said board deem it for the best interests of the district that the lands mentioned in the petition, or some portion thereof, be excluded from the district, and if no person interested in the district show cause in writing, why the said lands, or some portion thereof, should not be excluded from the district, or if, having shown cause, withdraws the same, or upon the hearing fails to establish such objections as he may have made, then it shall be the duty of the board to, and it shall forthwith, make an order that the lands mentioned and described in the petition, or some defined portion thereof, be excluded from said district.

§ 69. If there be outstanding bonds of the district at the time of the filing of said petition, the holders of such outstanding bonds may give their assent, in writing, to the effect that they severally consent that the lands mentioned in the petition, or such portion thereof as may be excluded from said district by order of said board, may be excluded from the district; and if said lands, or any portion thereof, be thereafter excluded from the district, the lands so excluded shall be released from the lien of such outstanding bonds. The assent must be acknowledged by the several holders of such bonds in the same manner and form as is required in case of a conveyance of land, and the acknowledgment shall have the same force and effect as evidence as the acknowledgment of such conveyance. The assent shall be filed with the board, and must be recorded in the minutes of the board; and said minutes, or a copy thereof, certified by the secretary of said board, shall be admissible in evidence, with the same effect as the said assent, and such certified copy thereof may be recorded in the office of the county recorder of the county wherein said lands are situated.

§ 70. In the event the said board of directors shall exclude any lands from said district upon petition therefor, it shall be the duty of the board of directors to make an entry in the minutes of the board, describing the boundaries of the district, should the exclusion of said lands from

said district change the boundaries of said district, and for that purpose the board may cause a survey to be made of such portions of the district as the board may deem necessary; and a certified copy of the entry in the minutes of the board excluding any land, certified by the president and secretary of the board, shall be filed for record in the recorder's office of each county within which are situated any of the land of the district; but said district, notwithstanding such exclusion, shall be and remain a drainage district as fully to every intent and purpose as it would be had no change been made in the boundaries of the district, or had the lands excluded therefrom never constituted a portion of the district.

§ 71. If the lands excluded from any district under this act shall embrace the greater portion of any division or divisions of such district, then the office of director for such division or divisions shall become and be vacant at the expiration of ten days from the final order of the board excluding said lands; and such vacancy or vacancies shall be filled by appointment by the board of supervisors of the county where the office of such board is situated, from the district at large. A director appointed as above provided shall hold his office until the next regular election for said district, and until his successor is elected and qualified.

§ 72. At least thirty days before the next general election of such district, the board of directors thereof shall make an order dividing said district into three or five divisions, as the case may require, as nearly equal in size as may be practicable, which shall be numbered first, second, third and so on, and one director shall be elected by each division. For the purposes of elections in such district, the said board of directors must establish a convenient number of election precincts, and define the boundaries thereof, which said precincts may be changed from time to time, as the board of directors may deem necessary.

§ 73. A guardian, an executor, or an administrator of an estate, who is appointed as such under the laws of this state, and who as such guardian, executor, or administrator, is entitled to the possession of the lands belonging to the estate which he represents, may on behalf of his ward, or the estate which he represents, upon being thereto properly authorized by the proper court, sign and acknowledge the petition in section 65 of this act mentioned, and may show cause, as herein provided, why the boundaries of the district should not be changed.

§ 74. Nothing herein provided shall, in any manner, operate to release any of the lands so excluded from the district from any obligation to pay, or any lien thereon, of any valid outstanding bonds or other indebtedness of said district at the time of the filing of said petition for the exclusion of said lands, but upon the contrary, said lands shall be held subject to said lien, and answerable and chargeable for and with the payment and discharge of all of said outstanding obligations at the time of the filing of the petition for the exclusion of said land, as fully

as though said petition for such exclusion were never filed and said order of exclusion never made; and for the purpose of discharging such outstanding indebtedness, said lands so excluded shall be deemed and considered as part of said drainage district the same as though said petition for its exclusion had never been filed or said order of exclusion never made; and all provisions which may have been resorted to to compel the payment by said lands of its quota or portion of said outstanding obligations, had said exclusion never been accomplished, may, notwithstanding said exclusion, be resorted to to compel and enforce the payment on the part of said lands of its quota and portion of said outstanding obligations of said drainage district for which it is liable, as herein provided. But said land so excluded shall not be held answerable or chargeable for any obligation of any nature or kind whatever, incurred after the filing with the board of directors of said district of the petition for the exclusion of said lands from the said district; provided, that the provisions of this section shall not apply to any outstanding bonds, the holders of which have assented to the exclusion of such lands from said district, as hereinbefore provided.

§ 75. The boundaries of any drainage district now organized or hereafter organized under the provisions of this act may be changed in the manner herein prescribed, but such change of the boundaries of the district shall not impair or affect its organization, or its rights in or to property, or any of its rights or privileges of whatsoever kind or nature; nor shall it affect, impair, or discharge any contract, obligation, lien or charge for or upon which it was or might become liable or chargeable, had such change of its boundaries not been made.

§ 76. The holder or holders of title, or evidence of title, representing one-half or more of any body of lands adjacent to the boundary of a drainage district, which are contiguous and which taken together, constitute one tract of land, may file with the board of directors of said district a petition, in writing, praying that the boundaries of said district may be so changed as to include therein said lands. The petition shall describe the boundaries of said parcel or tract of land, and shall also describe the boundaries of the several parcels owned by the petitioners, if the petitioners be the owners, respectively, of distinct parcels, but such descriptions need not be more particular than they are required to be when such lands are entered by the county assessor in the assessment-book. Such petition must contain the assent of the petitioners to the inclusion within said district of the parcels or tracts of land described in the petition, and of which said petition alleges they are, respectively, the owners; and it must be acknowledged in the same manner that conveyances of land are required to be acknowledged.

§ 77. The secretary of the board of directors shall cause a notice of the filing of such petition to be given and published in the same manner and for the same time that notices of special elections for the issue of bonds are required by this act to be published. The notice shall state

the filing of such petition and the names of the petitioners, a description of the lands mentioned in said petition, and the prayer of said petition; and it shall notify all persons interested in, or that may be affected by such change of the boundaries of the district, to appear, at the office of said board, at a time named in said notice, and show cause in writing, if any they have, why the change in the boundaries of said district, as proposed in said petition, should not be made. The time to be specified in the notice at which they shall be required to show cause shall be the regular meeting of the board next after the expiration of the time for the publication of the notice. The petitioners shall advance to the secretary sufficient money to pay the estimated costs of all proceedings arising from such petition.

§ 78. The board of directors, at the time and place mentioned in the said notice, or at such other time or times to which the hearing of said petition may be adjourned, shall proceed to hear the petition and all the objections thereto, presented in writing by any person showing cause as aforesaid why said proposed change of the boundaries of the district should not be made. The failure by any person interested in said district, or in the matter of the proposed change of its boundaries, to show cause, in writing, as aforesaid, shall be deemed and taken as an assent on his part to a change of the boundaries of the district as prayed for in said petition, or to such a change thereof as will include a part of said lands. And the filing of such petition with said board, as aforesaid, shall be deemed and taken as an assent on the part of each and all of such petitioners to such a change of said boundaries that they may include the whole or any portion of the lands described in said petition.

§ 79. The board of directors to whom such petition is presented, may require, as a condition precedent to the granting of the same, that the petitioners shall severally pay to such district such respective sums, as nearly as the same can be estimated (the several amounts to be determined by the board), as said petitioners or their grantors would have been required to pay to such district as assessments, had such lands been included in such district at the time the same was originally formed.

§ 80. The board of directors, if they deem it not for the best interests of the district that a change of its boundaries be so made as to include therein the lands mentioned in the petition, shall order that the petition be rejected. But if they deem it for the best interests of the district that the boundaries of said district be changed and if no person interested in said district or the proposed change of its boundaries shows cause, in writing, why the proposed change should not be made, or if, having shown cause, withdraws the same, the board may order that the boundaries of the district be so changed as to include therein the lands mentioned in said petition or some part thereof. The order shall describe the boundaries as changed, and shall also describe the entire

boundaries of the district as they will be after the change thereof as aforesaid is made; and for that purpose the board may cause a survey to be made of such portions of such boundary as is deemed necessary.

§ 81. If any person interested in said district of the proposed change of its boundaries, shall show cause as aforesaid why such boundaries should not be changed, and shall not withdraw the same, and if the board of directors deem it for the best interests of the district that the boundaries thereof be so changed as to include therein the lands mentioned in the petition, or some part thereof, the board shall adopt a resolution to that effect. The resolution shall describe the exterior boundaries of the lands which the board are of the opinion should be included within the boundaries of the district when changed.

§ 82. Upon the adoption of the resolution mentioned in the last preceding section, the board shall order that an election be held within said district, to determine whether the boundaries of the district shall be changed as mentioned in said resolution; and shall fix the time at which such election shall be held, and cause notice thereof to be given and published. Such notice shall be given and published, and such election shall be held and conducted, the returns thereof shall be made and canvassed, and the result of the election ascertained and declared, and all things pertaining thereto conducted in the manner prescribed by this act in case of a special election to determine whether bonds of a drainage district shall be issued. The ballots cast at said election shall contain the words "For change of boundary" or "Against change of boundary" or words equivalent thereto. The notice of election shall describe the proposed change of the boundaries in such manner and terms that it can readily be traced.

§ 83. If at such election a majority of all the votes cast at said election shall be against such change of the boundaries of the district, the board shall order that said petition be denied, and shall proceed no further in that matter. But if a majority of such votes be in favor of such change of the boundaries of the district, the board shall thereupon order that the boundaries be changed in accordance with said resolution adopted by the board. The said order shall describe the entire boundaries of said district, and for that purpose the board may cause a survey of such portions thereof to be made as the board may deem necessary.

§ 84. Upon a change of the boundaries of a district being made, a copy of the order of the board of directors ordering such change, certified by the president and secretary of the board, shall be filed for record in the recorder's office of each county within which are situated any of the lands of the district, and thereupon the district shall be and remain a drainage district, as fully, and to every intent and purpose, as if the lands which are included in the district by the change of the boundaries, as aforesaid, had been included therein at the original organization of the district.

§ 85. Upon the filing of the copies of the order, as in the last preceding section mentioned, the secretary shall record in the minutes of the board the petition aforesaid; and the said minutes, or a certified copy thereof, shall be admissible in evidence with the same effect as the petition.

§ 86. A guardian, an executor or an administrator of an estate, who is appointed as such under the laws of this state, and who, as such guardian, executor or administrator, is entitled to the possession of the lands belonging to the estate which he represents, may, on behalf of his ward, or the estate which he represents, upon being thereunto authorized by the proper court, sign and acknowledge the petition in section 76 of this act mentioned and may show cause why the boundaries of the district should not be changed.

§ 87. In case of the inclusion of any land within any district by proceedings under this act, the board of directors, must, at least thirty days prior to the next succeeding general election, make an order redividing such district, into three or five divisions, as the case may require, as nearly equal in size as may be practicable, which shall be numbered first, second, third and so on, and one elector shall thereafter be elected by each division. For the purpose of elections, the board of directors must establish a convenient number of election precincts in said districts, and define the boundaries thereof, which said precincts may be changed from time to time as the board may deem necessary.

§ 88. Whenever the board of directors of a drainage district heretofore organized, or hereafter organized under the provisions of this act, shall determine that the authorized bonded indebtedness of such drainage district is greater than such district is liable to need to complete its system as planned, and there be no outstanding bonds, the board of directors may call a special election for the purpose of voting upon a proposition to reduce such bonded indebtedness to such sum as the board may determine to be sufficient for such purpose.

§ 89. Notice of the said election shall be given in the same manner as provided in section 27 of this act, in relation to calling special elections for issuance of bonds. The notice of election must state the amount of the authorized bonded indebtedness of such district, and the amount to which it is proposed to reduce the same; also, the date on which said election will be held and the polling-places, as established by said board of directors. The ballots cast at said election shall contain the words "For reducing bonds—Yes," or "For reducing bonds—No." When the vote is canvassed by the board of directors and entered of record, if a majority of the votes cast shall be "For reducing bonds—Yes," then in that event the board of directors shall only be empowered to issue or sell the amount of bonds as was stipulated in the said notice of such special election; but if a majority of said votes are not "For reducing bonds—Yes," then the authority to issue bonds shall remain the same as before said special election was held.

§ 90. In case there be outstanding bonds of any district desiring to take advantage of the provisions of sections 88 and 89 of this act concerning reduction of bonded indebtedness, the assent of such bondholders may be obtained to such reduction of the bonded indebtedness, in the same manner as provided in section 69 of this act. If such assent is obtained in the manner therein provided, then, and in that event, such district shall be empowered to take advantage of all the provisions of said sections of this act, but not otherwise. No reduction of the bonded indebtedness, as in this act provided shall in any manner affect any order of court that may have been made, adjudicating and confirming the validity of said bonds.

§ 91. Whenever there remains in the hands of the board of directors of any drainage district organized under the provisions of this act, after the completion of its drainage system, and the payment of all demands against such district, any bonds voted to be issued by said district, but not sold, and not necessary to be sold for the raising of funds, for the use of such district, said board of directors may call a special election for the purpose of voting upon a proposition to destroy said unsold bonds, or so many of them as may be deemed best, or may submit such proposition at a general election.

§ 92. Such election shall be held in the same manner as other elections held under the provisions of this act. A notice of such election shall be given in the same manner as provided in section 27 of this act in relation to calling special elections for the issuance of bonds. The notice of election must state the amount of the bonded indebtedness of such district authorized by the vote of the district, the amount of the bonds remaining unsold, and the amount proposed to be destroyed, and the date on which such election is proposed to be held, and the polling-places as fixed by the board of directors. The ballots to be cast at such election shall contain the words "For destroying bonds—Yes" and "For destroying bonds—No," and the voter must erase the word "No" in case he favors the destruction of bonds, otherwise the word "Yes."

§ 93. When the vote is canvassed by the board of directors and entered of record, if a two-thirds majority of the votes cast should be found to be in favor of the destruction of said bonds, then the president of the board, in the presence of a majority of the members of the board, must destroy the bonds so voted to be destroyed, and the total amount of bonds so destroyed and canceled shall be deducted from the sum authorized to be issued by the electors of said district, and no part thereof shall thereafter be reprinted or reissued.

§ 94. Nothing in this act shall be so construed as to affect the validity of any district heretofore organized under the laws of this state, or its rights in or to property, or any of its rights or privileges of whatsoever kind or nature; but said districts are hereby made subject to the provisions of this act so far as applicable; nor shall it affect, impair, or discharge any contract, obligation, lien, or charge, for or upon which it was or might become liable or chargeable had not this act been passed.

§ 95. Nothing in this act shall be construed as repealing or in anywise modifying the provisions of any other act relating to the subject of drainage except such as may be contained in the act entitled "An act to provide for the organization and government of drainage districts, for the drainage of agricultural lands other than swamp and overflowed lands," approved March thirty-first, eighteen hundred and ninety-seven, and any subsequent acts supplementary thereto, or amendatory thereof, all of which acts, so far as they may be inconsistent herewith, are hereby repealed.

§ 96. This act shall take effect from and after its passage and approval.

ACT 988.

An act to provide for drainage by irrigation districts.

[Approved March 18, 1907. Stats. 1907, p. 569.]

§ 1. Any irrigation district heretofore organized or hereafter to be organized under the laws relating to such districts may provide for any and all drainage made necessary by the irrigation provided for by such laws; and the officers, agents and employees of such districts shall have the same powers, duties and liabilities respecting such drainage, and the construction, repair, maintenance, management and control thereof as they now have or may hereafter have respecting such irrigation, and all laws respecting such irrigation or such irrigation districts shall be so construed, applied and enforced as to apply to such drainage as well as such irrigation.

§ 2. Whenever it appears necessary, or proper, or beneficial to the lands affected thereby, to drain such lands or any portion thereof on account of the irrigation which has been done, or which is intended to be done under such laws, whether for the purpose of more beneficially carrying on such irrigation, or to protect such districts from liability by reason of such irrigation, whether the irrigation works have already been constructed or not, it shall be the duty of the board of directors to provide for such drainage, and said board and its officers, agents and employees shall do all necessary and proper acts for the construction, repair, maintenance and management of drainage work for such purpose.

§ 3. This act shall take effect immediately.

TITLE 146.

EL DORADO COUNTY.

ACT 992.

Protection of agriculture in, and prevention of animals from trespassing.
[Stats. 1875-76, p. 356.]

Repealed 1877-78, p. 557.

ACT 993.

Authorizing assessor to appoint one or more deputies. [Stats. 1877-78, p. 110.]

Repealed by County Government Act, 1897, p. 549, § 190.

ACT 994.

Board of auditors of, creating and prescribing powers of. [Stats. 1873-74, p. 825.]

Amended 1875-76, p. 681; 1877-78, p. 231. Superseded by County Government Act, 1897, p. 452.

ACT 995.

For the funding of the bonded indebtedness of. [Stats. 1877-78, p. 1046.]

ACT 996.

Lawful fences in. [Stats. 1869-70, p. 584.]

ACT 997.

Mud Springs township, trespassing of animals upon private property in. [Stats. 1873-74, p. 859.]

"Modified and probably repealed by estray law, 1897, p. 198; 1901, p. 603."
—Code Commissioner's Note.

ACT 998.

Improvement of roads in. [Stats. 1877-78, p. 545.]

Repealed 1888, p. 5, c. X, § 2.

ACT 999.

Roads and highways in. [Stats. 1871-72, p. 372.]

Amended 1873-74, p. 771. Repealed 1888, p. 5, c. X, § 2.

ACT 1000.

Fixing the salaries of certain officers in. [Stats. 1877-78, p. 778.]

Repealed by County Government Act, 1897, p. 549, § 190.

ACT 1001.

Regulating fees and salaries in. [Stats. 1869-70, p. 198.]

Amended 1869-70, p. 747; 1871-72, pp. 412, 592, 894; 1873-74, p. 710.

"Repealed as to the fees and salaries therein named by the various County Government Acts and the fee bill of 1895, 267."—Code Commissioner's Note.

ACT 1002.

Supervisors, organizing board of, and defining duties of. [Stats. 1873-74, p. 872.]

Repealed by County Government Act, 1897, p. 452.

ACT 1003.

Authorizing supervisors to levy a special tax. [Stats. 1871-72, p. 793.]

Superseded by subd. 18, § 25, County Government Act, 1897, p. 468.

ACT 1004.

Levy of taxes for county purposes and for redemption of bonded indebtedness of. [Stats. 1877-78, p. 75.]

ACT 1005.

Disposition of proceeds of poll taxes in. [Stats. 1873-74, p. 941.]
Repealed by Political Code, § 8861.

ACT 1006.

Treasurer of to transfer certain funds. [Stats. 1875-76, p. 311.]
Amended 1877-78, p. 688. Superseded by subd. 18, § 25, County Government Act, 1897, p. 468.

ACT 1007.

Providing for election of treasurer and collector and fixing their compensation. [Stats. 1871-72, p. 377.]
Superseded by County Government Act, 1897, p. 452, §§ 55, 190.

TITLE 147.
ELECTIONS.

ACT 1011.

Providing for general primary elections, to promote the purity thereof by regulating the conduct thereof and to support the privilege of free suffrage thereat by prohibiting certain acts and practices in relation thereto and providing for the punishment thereof and for other purposes. [Stats. 1897, p. 115.]
Citations. Cal. 118/802; 129/840.
Unconstitutional: Spier v. Baker, 120 Cal. 370.
Primary elections: See Political Code, §§ 1857-1880.

ACT 1012.

Providing for a general primary election in counties of certain classes. [Stats. 1895, p. 207.]
"Unconstitutional. (Marsh v. Hanly, 111 Cal. 868; Gett v. Supervisors, 111 Cal. 866.) Superseded by Political Code, §§ 1857-1875, added 1901, p. 606."—Code Commissioner's Note.

ACT 1013.

An act to provide for and regulate primary elections and providing the method whereby electors of political parties may express their choice at such primary elections for United States Senator. [Approved March 24, 1909. Stats. 1909, p. 691.]
This act appears in full in Political Code, Appendix, tit. "Elections."

ACT 1014.

In relation to elections held under the authority of section 8, article XI, of the Constitution, to elect boards of freeholders, or to vote upon proposed charters, or upon amendments to existing charters. [Stats. 1897, p. 288.]

Repealed 1899, p. 68.
See Act 867, ante.
Citations. Cal. 126/392.

ACT 1015.

To promote the purity of elections by regulating the conduct thereof, and to support the privilege of free suffrage by prohibiting certain acts and privileges in relation thereto, and providing for the punishment thereof. [Stats. 1893, p. 12.]

Amended 1895, p. 227; 1905, p. 87; 1905, p. 98. Repealed 1907, p. 671.
Codified in part by Amendments of Penal Code, 1905. See notes to §§ 42, 42a, 46, 47, 49, 50, 51, 54a, 54b, 57, 57a, 59, Penal Code.
Citations. Cal. 104/528; 106/421; 112/675; 188/198, 201; 141/415, 416; 146/314; 154/280.

"Unconstitutional in so far as it requires an oath of a successful candidate for office, in addition to that prescribed by the constitution. (Bardley v. Clark, 183 Cal. 196.) Section 32 of the act is constitutional. (Ex parte Cohen, 101 Cal. 524; Rebstock v. Superior Court, 146 Cal. 814). Certain sections superseded in Penal Code, §§ 42, 68b (1905, pp. 639-645)."—Code Commissioner's Note.

ACT 1016.

Intoxicating liquors, preventing sale of on election days. [Stats. 1873-74, p. 297.]

Citations. Cal. 92/198.

Codified by § 68b, Penal Code. See § 68b, Penal Code, note.

ACT 1017.

Election tickets, to prevent circulation of bogus, and to prevent frauds upon voters. [Stats. 1877-78, p. 180.]

Amended 1889, p. 209. Repealed by Political Code, §§ 1196, 1197.

ACT 1018.

Piece clubs, prohibition of. [Stats. 1877-78, p. 236.]

"Modified, if not repealed, by the purity of elections act, 1898, 12."—Code Commissioner's Note.

In full in Appendix to Penal Code, p. 784.

ACT 1019.

Concerning special elections. [Stats. 1877-78, p. 73.]

Citations. Cal. 180/94.

"Not repealed, but not applicable to existing laws, because there is now no great register. As to cities, see 1899, 63."—Code Commissioner's Note.

ACT 1020.

Creating a state commission in voting or balloting machines, defining their powers, and providing for the use at the option of indicated local authorities of voting or ballot machines for receiving and registering the vote in one or more precincts of any county, or city and county, city or town, at any or all elections held therein, and for ascertaining the result at such elections; and providing for the

punishment of all violations of the provisions of this act. [Stats. 1903, p. 262.]

Amended 1907, p. 288; 1907, p. 644, Supp. 1907, p. 647.

This act appears in full in Political Code, Appendix, tit. "Elections."

ACT 1021.

An act to regulate the conduct of election campaigns and repealing an act entitled "An act to promote the purity of elections by regulating the conduct thereof and to support the privilege of free suffrage by prohibiting certain acts and practices in relation thereto and providing for the punishment thereof," approved February 23, 1893. [Approved March 19, 1907. Stats. 1907, p. 671.]

This act is set forth at length in Political Code, Appendix, tit. "Elections."

TITLE 148.

ELISORS.

ACT 1026.

Fees of. [Stats. 1873-74, p. 794.]

Superseded by County Government Act, 1897, p. 481, § 105.

TITLE 149.

EMIGRATION.

ACT 1031.

An act to promote emigration from the state of California.

[Approved March 26, 1880. Stats. 1880, p. 15 (Ban. ed. 50).]

§ 1. It shall be unlawful for the owners, officers, agents, or employees of any steamship company, sailing vessel, or railroad company, or firm or corporation, that may be engaged in this state in the transportation of passengers to and from any foreign port, to withhold or refuse any person or persons the right to purchase a passage ticket or tickets to any foreign country for the reason that he or they have not presented a certificate, card, or other document whatsoever showing that such person has paid in full, or in part, any or all dues, debts, or demands, or otherwise, or any sum whatsoever, to any society, company, corporation, association, or individual, or firm; and any person or corporation who shall violate the provisions of this section, or in pursuance of any agreement, oral or written, refuse to sell a passage ticket to any person to any foreign country, shall be guilty of a misdemeanor, and upon conviction, shall be punished by a fine of not less than one hundred nor more than five hundred dollars; provided, that nothing in this section shall be construed in any manner to apply to any passport or other document required by law to be presented, having the signature or seal of any foreign consul resident within this state.

§ 2. This act shall take effect on and after its passage.

TITLE 150.
EMPLOYMENT AGENTS.

ACT 1036.

Defining the duties and liabilities of employment agents, making the violation thereof a misdemeanor and fixing penalties therefor.
[Stats. 1903, p. 14.]

Amended 1905, p. 148; 1909, pp. 187, 149. See Act 1037.
Citations. Cal. 144/285.

ACT 1037.

An act to regulate and license the conducting and operating of employment agencies and to provide a revenue therefrom, for the enforcement of the provisions of this act and other acts relating to employment agents and employment agencies.

[Approved March 6, 1909. Stats. 1909, p. 191.]

Employment agency defined.

§ 1. Any business, pursued for profit, for furnishing directly or indirectly, to persons seeking employment, information enabling, or tending to enable such persons to secure such employment, or registering for any fee, charge, or commission, the names of any persons seeking employment as aforesaid, shall be deemed to be an employment agency within the meaning of this act.

License, requirement for.

§ 2. Every person, firm, corporation or association who conducts or operates an employment agency in the state of California, without first procuring a license therefor, as provided in this act, is guilty of a misdemeanor.

How issued.

§ 3. Licenses granting the privilege to conduct or operate employment agencies shall be issued and delivered upon application, by the commissioner of the bureau of labor statistics, which license shall contain the name of the person, firm, corporation or association, seeking to conduct or operate an employment agency, and the exact location of the employment agency.

Fees for.

§ 4. The licenses herein provided for shall be issued as follows: To any person, firm, corporation or association, conducting or operating, or seeking to conduct or operate, an employment agency

1. In cities of the first, first and one-half and second classes upon payment of fifty dollars.

2. In cities of the third and fourth classes, upon payment of twenty-five dollars.

3. In all other cities and towns, upon payment of six dollars.

Names of agents must be given.

§ 5. Every person, firm, corporation or association applying for and procuring a license as herein provided, shall give to the commissioner of the bureau of labor statistics, the name and resident address of such person, or the names and resident addresses of the partners of such firms, or the names and resident addresses of the officers and directors of such corporations or associations, and the city or town, street and number where the employment agency is conducted or operated, or sought to be conducted and operated.

Term of license.

§ 6. All licenses issued as herein provided shall be valid, and shall authorize the person, firm, corporation or association to whom issued, to conduct or operate an employment agency on and from the date of issuing to the thirty-first day of March following, but no license shall continue in force for a longer period than one year.

Disposition of fees and fines.

§ 7. All moneys collected for licenses as provided herein, and all fines collected for violation of the provisions hereof, shall be paid into the state treasury and credited to the contingent fund of the bureau of labor statistics.

Branch agencies, separate licenses required for.

§ 8. Every person, firm, corporation or association conducting or operating, or seeking to conduct or operate branch employment agencies in the same or different localities must procure a separate license for such branch employment agencies; and no license issued as herein provided shall be transferable or used by any other person, firm, corporation or association than the one to whom it was issued, or used in a different location than the one for which it was issued, without the written consent of the commissioner of the bureau of labor statistics.

Must be posted.

§ 9. All licenses issued as herein provided, shall be posted in a conspicuous place, and any person, firm, corporation or association having such license and who refuses to exhibit the same upon demand of any officer or agent of the bureau of labor statistics, or any peace officer of the state, shall be guilty of a misdemeanor; and any person, firm, corporation or association lawfully having such licenses, and who transfers or disposes of the same to another person, firm, corporation or association to be used as an employment agency license, shall forfeit the same.

Penal clause.

§ 10. Every person, firm, corporation or association violating any of the provisions of this act, shall upon conviction thereof, be guilty of a misdemeanor.

Revocation of license.

§ 11. Upon conviction, of any person, firm, corporation or association for the violation of any of the provisions of this act, or an act entitled,

"An act defining the duties and liabilities of employment agents, making the violation thereof a misdemeanor, and fixing the penalties therefor," approved February 12, 1903, the commissioner of the bureau of labor statistics shall have the right to revoke all licenses issued to such person, firm, corporation or association, enabling them to conduct or operate an employment agency.

Municipal taxes.

§ 12. Nothing in this act shall be construed to prevent the collection of any tax or license by any county or municipal authority.

§ 13. All acts or parts of acts in conflict with this act are hereby repealed.

§ 14. This act shall take effect and be in force on and after April first, 1909.

TITLE 151.

ESCAPE.

ACT 1041.

Concerning the escape of convicts of the state's prison. [Stats. 1855, p. 203.]

This act related to the arrest, trial, recommitment, and punishment of convicts who had escaped.

Superseded by Penal Code, §§ 105-111.

TITLE 152.

ESCHEAT.

ACT 1046.

Concerning escheated estates. [Stats. 1852, p. 103.]

Amended 1855, p. 221; 1862, p. 27; 1869-70, p. 72. Superseded by Code of Civil Procedure, §§ 1269-1272.

ACT 1047.

To provide for the sale of escheated estates. [Stats. 1867-68, p. 215.]

Superseded by Code of Civil Procedure, §§ 1269-1272.

TITLE 153.

ESTABLISHMENT OF TITLES.

ACT 1048.

An act to provide for the establishment and quieting of title to real property in case of the loss or destruction of public records.

[Approved June 16, 1906; 78. Amended 1909, p. 163; Supp. 1907, p. 950.]

§ 1. Whenever the public records in the office of a county recorder have been, or shall hereafter be, lost or destroyed, in whole or in any material part, by flood, fire or earthquake, any person who claims an estate of inheritance, or for life in, and who is by himself or his tenant,

or other person, holding under him, in the actual and peaceable possession of any real property in such county, may bring and maintain an action in rem against all the world, in the superior court for the county in which such real property is situate, to establish his title to such property and to determine all adverse claims thereto. Any number of separate parcels of land claimed by the plaintiff may be included in the same action.

§ 2. The action shall be commenced by the filing of a verified complaint, in which the party so commencing the same shall be named as plaintiff, and the defendants shall be described as "all persons claiming any interest in, or lien upon the real property herein described, or any part thereof," and shall contain a statement of the facts enumerated in section one of this act, a particular description of such real property, and a specification of the estate, title, or interest of the plaintiff therein.

§ 3. Upon the filing of the complaint, a summons must be issued under the seal of the court, which shall contain the name of the court and county in which the action is brought, the name of the plaintiff and a particular description of the real property involved, and shall be directed to "all persons claiming any interest in, or lien upon the real property herein described, or any part thereof," as defendants, and shall be substantially in the following form:

"In the superior court of the state of California in and for the county (or city and county) of ____."

Action No. ____.

Plaintiff,

vs.

All persons claiming any interest in, or lien upon, the real property herein described or any part thereof, Defendants.

The People of state of California, to all persons claiming any interest in, or lien upon, the real property herein described or any part thereof, defendants, greeting:

You are hereby required to appear and answer the complaint of ____, plaintiff, filed with the clerk of the above-entitled court and county, within three months after the first publication of this summons, and to set forth what interest or lien, if any, you have in or upon that certain real property or any part thereof, situated in the county (or city and county) of ____, state of California, particularly described as follows: (Here insert description.)

And you are hereby notified that, unless you so appear and answer, the plaintiff will apply to the court for the relief demanded in the complaint, to wit: (Here insert a statement of the relief so demanded.)

Witness my hand and the seal of said court, this ____ day of ____,

A. D. ____.

(Seal)

Clerk."

§ 4. The summons shall be published in a newspaper of general circulation published in the county in which the action is brought. The

newspaper in which such publication is to be made shall be designated by an order of the court or a judge thereof to be signed and filed with the clerk. No other order for the publication of the summons shall be necessary, nor shall any affidavit therefor be required, nor need any copy of the complaint be served, except as hereinafter required. The summons shall be published at least once a week for a period of two months, and to each publication thereof shall be appended a memorandum in substance as follows:

"The first publication of this summons was made in — (here insert name) newspaper on the — day of — A. D. —," (inserting the date).

And if the affidavit provided for in section five of this act discloses the name of any person claiming an interest in the property, or a lien thereon adverse to the plaintiff, that fact, together with the name and address (if given) of said person shall be stated in a memorandum to be appended to the summons in substance as follows:

"The following persons are said to claim an interest in, or lien upon said property adverse to plaintiff" (giving their names and addresses as above provided). A copy of the summons, together with a copy of the foregoing memoranda, shall be posted in a conspicuous place on each separate parcel of the property described in the complaint within fifteen days after the first publication of the summons.

§ 5. At the time of filing the complaint, the plaintiff shall file with the same his affidavit, fully and explicitly setting forth and showing (1) the character of his estate, right, title, interest or claim in, and possession of the property, during what period the same has existed and from whom obtained; (2) whether or not he has ever made any conveyance of the property, or any part thereof, or any interest therein, and if so when and to whom; also a statement of any and all subsisting mortgages, deeds of trust, and other liens thereon; (3) that he does not know and has never been informed of any other person who claims or who may claim, any interest in, or lien upon, the property or any part thereof, adversely to him, or, if he does know or has been informed of any such person, then the name and address of such person. If the plaintiff is unable to state any one or more of the matters herein required, he shall set forth and show, fully and explicitly, the reasons for such inability. Such affidavit shall constitute a part of the judgment-roll. If the plaintiff be a corporation, the affidavit shall be made by an officer thereof. If the plaintiff be a person under guardianship the affidavit shall be made by his guardian.

§ 6. If the said affidavit discloses the name of any person claiming any interest in, or lien upon, the property adverse to the plaintiff, the summons shall also be personally served upon such person if he can be found within the state, together with a copy of the complaint and a copy of said affidavit during the period of the publication of the summons; and to the copy of the summons delivered to any such person there shall be appended a copy of the memorandum provided for in section 4 hereof.

If such person resides out of this state a copy of the summons, memoranda, complaint and affidavit shall be within fifteen days after the first publication of the summons deposited in the United States post-office, inclosed in a sealed envelope, postage prepaid, addressed to such person at the address given in the affidavit or if no address be given therein, then at the county seat at the county in which the action is brought. If such person resides within this state and could not with due diligence be found within the state, within the period of the publication of the summons, then said copies aforesaid shall be mailed to him as above provided forthwith upon the expiration of said period of publication.

§ 7. Upon the completion of the publication and posting of the summons and its service upon and mailing to the persons, if any, upon whom it is hereby directed to be so specially served the court shall have full and complete jurisdiction over the plaintiff and the said property and of the person of every one having or claiming any estate, right, title or interest, in or to, or lien upon, said property, or any part thereof, and shall be deemed to have obtained the possession and control of said property for the purposes of the action, and shall have full and complete jurisdiction to render the judgment therein which is provided for in this act.

§ 8. At any time within three months from the first publication of the summons, or within such further time, not exceeding thirty days as the court may, for good cause, grant, any person having or claiming any estate, right, title or interest, in or to, or lien upon, said property or any part thereof, may appear and make himself a party to the action by pleading to the complaint. All answers must be verified and must specifically set forth the estate, right, title, interest, or lien so claimed.

§ 9. The plaintiff must, at the time of filing the complaint and every defendant claiming any affirmative relief must, at the time of filing his answer, record in the office of the recorder of the county in which the property is situated, a notice of the pendency of the action containing the object of the action or defense, and a particular description of the property affected thereby; and the recorder shall record the same in a book devoted exclusively to the recordation of such notices and shall enter, upon a map or plat of the parcels of land, to be kept by him for that purpose, on that part of the map or plat representing the parcel or parcels so described a reference to the date of the filing of such notice and, when recorded, to the book and page of the record thereof.

§ 10. No judgment in any such action shall be given by default; but the court must require proof of the facts alleged in the complaint and other pleadings.

§ 11. The judgment shall ascertain and determine all estates, rights, titles, interests and claims in and to said property and every part thereof, whether the same be legal or equitable, present or future, vested or

contingent, or whether the same consist of mortgages or liens of any description and shall be binding and conclusive upon every person who, at the time of the commencement of the action, had or claimed any estate, right, title, or interest in or to said property, or any part thereof, and upon every person claiming under him by title subsequent to the commencement of the action. A certified copy of the judgment in such action shall be recorded in the office of the recorder of the county in which said action was commenced, and any party or the successor in interest of any party to said action may, at his option, file for record in the office of the recorder of such county the entire judgment-roll in said action.

§ 12. Except as herein otherwise provided, all the provisions and rules of law relating to evidence, pleading, practice, new trials and appeals applicable to other civil actions shall apply to the actions hereby authorized.

At any time after the issuance of the summons, any party to the action may take depositions therein in conformity to law upon notice to the adverse party sought to be bound by such depositions and who have appeared in the action (if any) and upon notice filed with the clerk. The depositions may be used by any party against any other party giving or receiving the notice (except the clerk), subject to all just exceptions.

§ 13. The clerk shall number consecutively in a distinct series, all actions hereby authorized and shall keep an index and register thereof, devoted exclusively to such actions.

§ 14. Whenever judgment in an action hereby authorized shall have been entered as to any real property, no other action relative to the same property or any part thereof maintained under this act shall be tried until proof shall first have been made to the court that all persons who appeared in the first action or their successors in interest have been personally served with the papers mentioned in section 6 of this act, either within or without this state more than one month before the time to plead expired.

§ 15. An executor, administrator or guardian or other person holding the possession of property in the right of another, may maintain, as plaintiff, and may appear and defend in the action herein provided for.

§ 16. The word "county" whenever used in this act includes and applies to a consolidated city and county.

§ 17. The remedies provided for by this act shall be deemed cumulative, and in addition to any other remedy now or hereafter provided by law for quieting or establishing title to real property.

§ 18. All actions authorized hereby must be commenced before January 1, 1911. [Amendment approved March 6, 1909. Stats. 1909, p. 163.]

§ 19. This act shall be in force thirty days after its passage.

Construction and Constitutionality. See note to this act in Appendix to the Code of Civil Procedure, p. 844.

TITLE 154.

ESTATES OF DECEASED PERSONS.

ACT 1052.

Estates of deceased persons, collection of savings bank deposits by next of kin. [Stats. 1873-74, p. 132.]

Amended in every section, 1895, § 32.

Codified by § 1454 of Code of Civil Procedure: See Code of Civil Procedure, § 1454, note.

Collection of deposit under \$500 by next of kin: See § 16 of Banking Act of 1909; Stats. 1909, p. 90. This act is set forth at length in the Appendix to the Civil Code, p. 756.

ACT 1053.

Estates of deceased persons, regulating settlement of, supplementing act of May 1, 1851. [Stats. 1871-72, p. 696.]

Superseded by Code of Civil Procedure, § 1632.

Citations. Cal. 52/188; 53/850; 66/57; 71/73.

ACT 1054.

To provide for the summary sale of mines or mining interests belonging to estates of deceased persons. [Stats. 1865-66, p. 359.]

Superseded by Code of Civil Procedure, §§ 1522-1523.

ACT 1055.

Authorizing certain corporations to act as executor, administrator, guardian, assignee, receiver, depository or trustee, and in other capacities and to provide for and regulate the administration of trusts by such corporations. [Stats. 1891, p. 490.]

Amended 1897, p. 424; 1903, p. 244; 1905, p. 232; 1907, p. 562.

Citations. App. 5/164.

This act appears in full in the Appendix to the Civil Code, p. 800. It authorized deposits to be made with such corporations and the reduction of the bond of an executor, guardian, etc., depositing with such corporation.

ACT 1056.

An act to provide for the investment of the moneys in the estates of deceased persons fund and also to provide for payment of interest received into the state school fund.

[Approved February 22, 1909. Stats. 1909, p. 37.]

§ 1. Whenever and as often as there is in the state treasury to the credit of the estates of deceased persons fund (in excess of the retention hereinafter provided for) the sum of ten thousand dollars or more, the state board of examiners must invest the same in the bonds of this state, or in the bonds of the United States, or in the bonds of the sev-

eral counties, city and county, cities or towns, or school districts of this state; the investments to be made in such manner and on such terms as the board shall deem best for the fund; provided, that no investment shall be made which with the amounts previously invested shall reduce the uninvested portion of the fund below the amount of ten thousand dollars.

§ 2. Bonds purchased by the state board of examiners under the provisions of this act must be delivered to the state treasurer, who shall keep them as a portion of said estates of deceased persons fund, and the interest upon such bonds shall be paid into the state school fund and apportioned like other moneys employed for the support of common schools.

§ 3. It is the intent of this act that there shall at all times be retained in said estates of deceased persons fund, in the form of cash available for meeting the demands of persons holding legal claims against such fund, the sum of at least ten thousand dollars, and whenever by reason of payments made out of the fund the amount of cash therein shall be reduced below the specified amount of ten thousand dollars, it shall be the duty of the state board of examiners to sell such bonds belonging to said fund as they may deem proper, for the purpose of making good the cash retention of ten thousand dollars.

§ 4. This act shall take effect from and after its passage.

TITLE 155.

ESTRAYS.

ACT 1059.

An act concerning trespassing of animals upon private lands, and the recovery of damages resulting therefrom.

[Approved March 23, 1907. Stats. 1907, p. 999.]

§ 1. It is unlawful for any person, firm or corporation owning, or having possession of, any animal, to suffer or permit such animal to break into and enter upon any land owned by, or lawfully in the possession of any person, firm or corporation, other than the owner of such animal, in all cases where such land is planted to growing crops, vines, fruit trees or vegetables, and is at the time entirely inclosed by a substantial fence or other inclosure.

§ 2. The owner of, or person who is in the lawful possession of, any land trespassed upon, in violation of this act, is entitled to recover, by action in a court of competent jurisdiction, from the owner of, or person in possession of, or person chargeable with the care of, the trespassing animal or animals, all actual damages sustained by reason of such trespass, together with costs of suit.

§ 3. For the purpose of allowing the plaintiff a better security for the payment of any judgment he may recover in actions brought under the

first two sections of this act, all the provisions of the Code of Civil Procedure of this state relating to attachment process shall apply to such actions, subject only to the following modifications, to wit: Instead of filing the affidavit on attachment, required by sections five hundred and thirty-eight and eight hundred and sixty-six of said code, the plaintiff is entitled to the issuance of a writ of attachment against the property of defendant, upon filing his complaint stating a cause of action under this act, verified according to the law concerning the verification of pleadings.

§ 4. No animal is exempt from attachment or execution, levy and sale, to satisfy a judgment that may be rendered against the owner of such animal for trespass committed by such animal.

§ 5. In all other matters than those in which a different rule is herein prescribed the course of procedure prescribed in the Code of Civil Procedure of this state shall prevail in suits brought under this act.

§ 6. All acts and parts of acts in conflict with this act are hereby repealed; provided, nothing in this act shall be deemed or construed to repeal an act of the legislature of this state relating to estrays, approved March 23d, 1901.

§ 7. This act shall take effect and be in force from and after its passage.

Estrays: See Act 1060.

ACT 1060.

An act relating to estrays, providing for taking them up and giving a lien on them for all damages, costs, and expenses incurred by reason of taking them up, and repealing all other acts and parts of acts now in force relating to estrays.

[Approved March 23, 1901. Stats. 1901, p. 603. Amended 1905, p. 395; 1907, p. 132; 1909, p. 1060, 1079.]

Compare act Stats. 1907, p. 999, ante, Act 1059.

§ 1. Any person finding at any time any stray domestic animal or animals upon his premises, or upon premises to which he has the right of possession, or upon highways adjacent thereto, may take up the same and have a lien thereon for all expenses incurred and costs in keeping and caring for said animal or animals, as hereinafter provided; and no person shall remove them from the possession of the taker-up, or from the possession of the officer to whom they may have been delivered, except as hereinafter provided.

§ 2. The word "stray" as used in this act is intended to include all domestic animals that have strayed upon, or been found upon, lands other than those of their owner, or the public domain, or lands whose owner (or to which the person in possession thereof) has consented, may be passed over, or allowed to be entered on, by such animal. Any per-

son taking up an estray animal or animals shall confine the same in a secure place and within one week thereafter shall publish in some newspaper of general circulation, printed and published in the county in which such estray is found, and also file with the county recorder of said county a notice containing a description of the animal or animals taken up, with the marks and brands, if they have any, together with the probable value of each animal, and a statement of the place where the taker-up found, and where he has confined the same. The county recorder shall receive for filing said notice, the sum of fifty cents. The said notice shall be so published for two weeks. If there be no newspaper of general circulation printed and published in the county wherein such estray animal is found, then such publication shall be made in some newspaper of general circulation printed and published in an adjoining county within this state; provided, however, that the cost of publication does not exceed three dollars. If, however, the animal has the owner's brand or mark upon it, and such brand or mark has been recorded according to law, or if the finder knows the owner of said animal, or the person having charge thereof, then, within five days after said animal is taken up he shall notify the owner of said animal, or other person having charge thereof, which notice shall contain the same information as the notice to be published and recorded, as hereinabove provided. This notice shall be in lieu of publishing and recording such notice, and for which notice he shall be entitled to the sum of fifty cents. [Amendment approved April 22, 1909. Stats. 1909, p. 1079. In effect immediately.]

§ 3. At any time within thirty days from the date of the filing of the notice specified in section 2 of this act, any person claiming such estray animal or animals shall appear and demand from the taker-up the possession thereof, and shall at the same time pay to the taker-up all damages, expenses and costs incurred by reason of taking up said animal or animals, and upon receiving such damages, expenses and costs, the taker-up shall immediately deliver to the party claiming such animal or animals the possession thereof; such damages, expenses and costs shall be estimated as follows, to wit:

1. The total amount paid by the taker-up to the county recorder, and the reasonable cost of publishing said notice.

2. The sum of thirty cents per day for the keeping and care of each horse, mule, jenny, ass, cow, bull, ox, steer or calf.

3. The sum of ten cents per day for the keeping and care of each sheep, goat, hog or other animal not hereinbefore specified, provided that the taker-up of said animal or animals must properly feed and water the same while under his care, and if he fails so to do shall forfeit all right of lien thereof. [Amendment approved April 22, 1909. Stats. 1909, p. 1080. In effect immediately.]

- § 4. If the party claiming such estray animal or animals is dissatisfied with the amount charged by the taker-up for costs and expenses, he shall tender to the taker-up the proper amount therefor, and if the said

tender be refused, the party claiming such estray animal or animals shall within ten days thereafter commence, in the proper court, suit against the taker-up for the recovery of the possession of such estray animal or animals, in which said action the taker-up may set forth his expenses and costs, and said matter, together with accruing expenses and costs to the time of the entry of the judgment, shall be determined by the court in accordance with the provisions of this act, and the amount of all such expenses and costs, and the costs of said action shall be included in any judgment awarded by said court, and such costs in said action shall be in favor of the plaintiff in said action and against said defendant, if the court shall find that the amount tendered by the plaintiff to the defendant was not less than the proper amount; otherwise said costs shall be in favor of the defendant and against the plaintiff. Without the consent of defendant in any such action, no return of such animal or animals shall be adjudged until the plaintiff shall pay to defendant or deposit in court payable to him, the amount of all such expenses and costs in said action; and in case such payment or deposit be not made within ten days after the same shall have been determined by the court, or said action be not prosecuted with diligence, then the said action may be dismissed on motion of defendant without notice; in case of such dismissal, the defendant shall have judgment for his costs. In any such action for plaintiff to recover, it shall be incumbent on him to establish an existing right in himself to the possession of such animal or animals.

§ 5. If no person appears and claims the animal or animals taken up within thirty days after the filing of the notice hereinbefore mentioned in section three of this act; or if a person does appear and claim the animal or animals taken up within thirty days after the filing of the notice above referred to, but shall fail to pay to the taker-up the expenses and costs as provided in section three of this act, and shall fail to commence and prosecute with diligence an action for the recovery of the possession of such estray animal or animals within the time required by section four of this act; or if said action shall be dismissed; then the taker-up shall, in writing, notify a constable, or other officer of the township or county in which said animal or animals are held, which notice shall specify that he has complied with all the provisions of this act, and that a claimant of said animal or animals has failed to appear and claim the same as herein provided, or if he has appeared that he has failed to pay the expenses and costs and has failed to commence or prosecute with diligence an action for the recovery of the possession of such animal or animals within the time and in the manner provided for in this act, or that said action has been dismissed, and that such animal or animals are held by him subject to sale. Said constable, or officer, shall immediately proceed to sell such animal or animals at public sale, in conformity with the law concerning sales on execution, and shall be entitled to the same fees as are provided by law for sales under execution.

§6. Out of the money realized from the sale of estrays, the constable or other officer shall first retain his fees; he shall then pay to the taker-up his expenses and costs estimated as provided in section three of this act, or so much thereof as the funds in his hands will permit, and the surplus, if any, he shall pay to the county treasurer, to be held by him for the owner of the estray or estrays for which it was received in payment. If any person or persons shall, within one year thereafter, prove to the satisfaction of the board of supervisors of the county in which the estray or estrays were sold, that he or they are entitled to the sum so held by the county treasurer, or any part thereof, the said board of supervisors shall order such sum to be paid over to the person or persons; and if not so proven within one year, then the same shall become a part of the common school fund of said county.

§7. All sales made by any constable, or other officer, under the provisions of this act, shall convey a good and valid title to the purchaser, and the owner of the estray or estrays so sold shall thereafter be barred from all right to recover the same.

§8. The taker-up of an estray animal or animals shall use reasonable care to preserve the same from injury, but if an estray animal or animals die or escape from the possession of the taker-up at any time while he is holding the same under the provisions of this act, the taker-up shall not be held liable in any manner on account of such animal or animals.

§9. Nothing in this act shall affect the laws or regulations in force or which may be in force regarding estrays, the poundkeeper, or other pound officer within the limits of any city or town where laws regarding estrays are in force.

§9a. The board of supervisors of any county may, in their discretion, upon the petition of twenty-five or more electors of any township or portion of any township, not included within the boundaries of any incorporated municipality, appoint a poundkeeper for such township, or such portions thereof not included within the boundaries of any incorporated municipality. Where such poundkeeper has been appointed, it shall be the duty of any person finding at any time any estray, domestic animal or animals upon his premises, or upon the premises to which he has the right of possession, or upon highways adjacent thereto, to deliver same to the poundkeeper or notify said poundkeeper thereof, and it shall be the duty of the poundkeeper to take possession thereof, and said poundkeeper shall have a lien thereon for all expenses incurred in keeping and caring for said animal or animals as in this act provided, and the duties, compensation, restrictions and liabilities of said poundkeeper shall be the same as provided in sections 2, 3, 4, 6, 7 and 8 of this act for takers-up of an estray animal or animals; provided, however, that said poundkeeper shall not be required to deliver the animal or animals to the constable for sale thereof, but shall himself be empowered with the same powers and duties, and shall be subject to the same restrictions

and shall receive the same compensation as the constable in such cases, as are mentioned in section 5 of this act. [New section added April 22, 1909. Stats. 1909, p. 1060. In effect immediately.]

§ 10. All other acts and parts of acts relating to estrays now in force are hereby repealed.

§ 11. This act shall take effect from and after its passage.

This act and the act of 1897, p. 198, repealed all prior acts relating to estrays. Many of these acts are here enumerated. For acts relating to any particular county, see the particular county.

ACT 1061.

To prevent the trespassing of animals upon private property. [Stats. 1855, p. 70.]

Amended 1862, p. 480; 1863, p. 570; 1863-64, p. 459; 1865-66, pp. 126, 448; Supp. 1861, p. 474.

Acts relating to trespassing animals were continued in force by Political Code,

§ 19. This act was, however, repealed by the general repealing clauses in the acts of 1897, p. 198, and 1901, p. 608.

ACT 1062.

Concerning estray animals. [Stats. 1856, p. 186.]

Amended 1859, p. 147; 1860, p. 9; 1863-64, p. 386.

See note to Act 1061.

ACT 1063.

To prevent stallions from running at large in Sacramento County. [Stats. 1859, p. 149.]

"Extended and amended 1860, p. 107; 1865-66, p. 327; 1867-68, p. 70; 1869-70, p. 68; 1873-74, p. 228. As to penal clauses, repealed by § 6, Penal Code; and as to other provisions, probably repealed by estray law of 1897, p. 198, and 1901, p. 608."—Code Commissioners' Note.

This act was extended by later acts to the following counties: Sutter, Alameda, Yuba, El Dorado, Placer, Santa Cruz, Calaveras, Amador, Santa Clara, Mariposa, Merced, Yolo, Stanislaus, Butte, Mendocino, Shasta, Colusa, Tehama, Sonoma, Siskiyou, Plumas, Sierra, Monterey, San Mateo, Sonoma, Nevada, Alpine, and Mono.

ACT 1064.

Trespassing animals in the counties of Los Angeles, San Diego, and Monterey. [Stats. 1871-72, p. 99.]

Amended 1871-72, p. 241. Repealed as to Monterey County, 1871-72, p. 566. Extended to Inyo County, 1871-72, p. 668. Repealed 1897, p. 198, and 1901, p. 608, relating to estrays.

ACT 1065.

Preventing hogs running at large in Susanville, Lassen County, Sutter Creek township number two, Amador County, and Oroville, Butte County. [Stats. 1871-72, p. 510.]

Repealed provisionally, Stats. 1873-74, p. 190.

See Statute of 1897, p. 108, § 9.

ACT 1066.

To protect agriculture and prevent trespassing of animals on private property. [Stats. 1871-72, p. 563.]

Probably superseded by 1897, p. 198; 1901, p. 608, relating to estrays.

ACT 1067.

Protecting agriculture and preventing trespassing of animals. [Stats. 1873-74, p. 50.]

Supplemented 1873-74, pp. 179, 474, 705, 824.

Citations. Cal. 51/298; 52/202, 408; 53/49, 146. App. 3/380.

"Unconstitutional, in so far as it authorizes justices to enforce a Hen. (Young v. Wright, 52 Cal. 407; Sutherland v. Sweem, 58 Cal.

Repealed 1877-78, p. 176. (Hanley v. Sixteen Horses, 97 Cal. 182.)"—
Code Commissioner's Note.

ACT 1068.

Hogs running at large in certain towns. [Stats. 1873-74 p. 904.]

Repealed, 1897, p. 198.

This act prevented hogs running at large upon lands included in any townsite which had received a patent under congressional grant.

ACT 1069.

Stanislaus, Fresno, and Sutter counties, protection of agriculture in, and prevention of trespassing of animals upon private property. [Stats. 1875-76, p. 373.]

Repealed 1897, p. 198.

ACT 1070.

To prevent hogs and goats running at large on certain lands. [Stats. 1875-76, p. 644.]

Amended 1877-78, p. 85. Superseded 1897, p. 198.

This act forbade the running at large upon any townsite receiving patents under act of Congress.

ACT 1071.

Concerning trespassing of animals upon private lands in certain counties. [Stats. 1877-78, p. 176.]

Amended 1877-78, p. 878. Supp. 1907, p. 300. Superseded by the estray laws of 1897, p. 198, and 1901, p. 608, as amended 1905, p. 895; 1907, p. 132. See estray law of 1907, ante, Act 1059.

This act applied to parts of San Bernardino, El Dorado, and Tehama counties, and to all of Alpine, Humboldt, Merced, Solano, Santa Barbara, San Joaquin, San Luis Obispo, and Sacramento counties.

ACT 1072.

Buck goats, to prevent running at large. [Stats. 1877-78, p. 437.]

Superseded by § 597g of Penal Code: See Penal Code, § 597g, note.

ACT 1073.

Relating to estrays, and repealing all other acts and parts of acts now in force relating to estrays. [Stats. approved March 27, 1897. Stats. 1897, p. 198.]

Repealed 1901, p. 606.

TITLE 156.**ETNA.****ACT 1078.**

Town of, incorporating. [Stats. 1877-78, p. 261.]

See tit. "Rough and Ready," post.

TITLE 157.**EUREKA.****ACT 1082.**

To incorporate. [Stats. 1859, p. 192.]

Amended 1862, p. 55; 1863-64, p. 165; 1871-72, p. 186; 1873-74, p. 91.

Supplemented 1875-76, p. 333. Amended 1875-76, p. 334.

Superseded by the charter of Eureka, Stats. 1895, pp. 356-405.

ACT 1083.

Charter of Eureka. [Stats. 1895, p. 356.]

Amended 1907, p. 1172.

Citations. Cal. 150/208.

ACT 1084.

Incorporation of. [Stats. 1873-74, p. 91.]

Supplemented 1875-76, p. 333. Amended 1875-76, p. 334. Repealed by charter of Eureka 1895, p. 356.

ACT 1085.

To legalize the survey of Clark's addition to. [Stats. 1869-70, p. 395.]

ACT 1086.

To cede property to Eureka. [Stats. 1857, p. 76.]

This act ceded to Eureka the entire waterfront of the town.

ACT 1087.

Common council of to sit as a board of equalization. [Stats. 1877-78, p. 184.]

Superseded by charter of Eureka, 1895, p. 356.

ACT 1088.

To establish a police court in. [Stats. 1895, p. 90.]

Superseded by charter, 1895, p. 376.

TITLE 153.
EXPLOSIVES.

ACT 1093.

An act to protect life and property against the careless and malicious use or handling of dynamite and other explosives.

[Approved March 12, 1887. Stats. 1887, p. 110.]

Citations. App. 1/297, 298.

Sections 1, 2, 3, 4 codified by § 275a, Penal Code: See Penal Code, § 275a, note.

Section 8 codified by § 601, Penal Code: See Penal Code, § 601, note.

Keep record of sales.

§ 1. It is the duty of each and every person, contractor, firm, association, joint stock company, and corporation, manufacturing, storing, selling, transferring, disposing of, or in any manner dealing in or with or using or giving out, nitro-glycerine, dynamite, vigorite, hercules powder, giant powder, or other high explosive, by whatever name known, to keep at all times an accurate journal, or book of record, in which must be entered, from time to time, as they are made, each and every sale, delivery, transfer, gift, or other disposition made by such person, firm, association, joint stock company, or corporation, in the course of business or otherwise, of any quantity of such explosive substance.

What record must show.

§ 2. Such journal or record book must show, in a legible handwriting to be entered therein at the time, a complete history of each transaction, stating the name and quantity of the explosive sold, delivered, given away, transferred, or otherwise disposed of; the name, place of residence, or business of the purchaser or transferee; the name of the individual to whom delivered, with his or her address, with a description of such individual sufficient to provide for identification.

Records subject to examination of peace officer.

§ 3. Such journal or record book must be kept, by the person, firm, association, joint stock company, or corporation so selling, delivering, or otherwise disposing of such explosive substance or substances, in his or their principal office or place of business, at all times subject to the inspection and examination of the peace officers or other police authorities of the state, county, city and county, or municipality where the same is situated, on proper demand made therefor, any failure or neglect to keep such book, or to make the proper entries therein at the time of the transaction, as herein provided, or to exhibit the same to the peace officers or other police authorities on demand, shall be deemed a misdemeanor, and punished accordingly.

Forfeiture in addition to punishment.

§ 4. In addition to such punishment, and as a cumulative penalty, such person, firm, association, joint stock company, or corporation so offending, shall forfeit, for each offense, the sum of two hundred and fifty

time in the month of June, 1906, prior to the last day of said month, may be performed or taken on any day not later than the tenth day of July, A. D. 1906, with the same effect as if it had been performed or taken on the day or within the time wherein such act or proceeding was so appointed, required or limited to be performed. The provisions of this act shall not apply to criminal actions.

§ 2. This act shall take effect immediately.

Citations. Cal. 152/253.

**TITLE 160.
FACTORIES.**

ACT 1098.

To provide for the proper sanitary condition of factories and workshops, and for the preservation of the health of the employees. [Stats. 1889, p. 3.]

Amended 1901, p. 571; 1903, p. 16; 1909, p. 43.

Declared unconstitutional: *Schaeslein v. Cabaniss*, 135 Cal. 466.

**TITLE 161.
FEATHER RIVER.**

ACT 1103.

To declare the bridge across Feather River, extending from Fifth Street, at the city of Marysville, in the county of Yuba, to the opposite bank of the said river, a free bridge. [Approved March 31, 1891. Stats. 1891, p. 263.]

ACT 1104.

Concerning survey of outlet of. [Stats. 1867-68, p. 91.]

**TITLE 162.
FEEBLE-MINDED CHILDREN.**

Consult the following acts:

ACT 1108.

To establish the "California Home for the Care and Training of Feeble-minded Children," and provide for the maintenance of the same. [Approved March 18, 1885; 1885, p. 198.]

Repealed 1887, p. 73.

Citations. Cal. 189/266, 267.

ACT 1109.

To provide for the government and management of the California Home for the Care and Training of Feeble-minded Children. [Stats. 1887, p. 69.]

Amended 1889, p. 155. Supplemented 1897, p. 251; 1901, p. 795.

Citations. Cal. 189/267. App. 1/279.

ACT 1110.

Providing a permanent site for the California Home for the Care and Training of Feeble-minded Children. [Stats. 1839, p. 69.]

ACT 1111.

To authorize and direct the sale of the site and buildings of the California Home for the Care and Training of Feeble-minded Children, in Santa Clara County. [Approved March 19, 1891. Stats. 1891, p. 133.]

ACT 1112.

Granting to the board of supervisors of Sonoma County, California, right of way through the lands of the California Home for the Care and Training of Feeble-minded Children, to enable said board of supervisors to change the location of the public highway now traversing said lands. [Approved March 23, 1893. Stats. 1893, p. 277.]

ACT 1113.

To authorize, empower, and direct the California Home for the Care and Training of Feeble-minded Children, to admit idiots, epileptics and mentally enfeebled paralytics into said institution; to provide for the support of all inmates therein, and to repeal all acts or parts of acts in conflict with the provisions of this act. [Approved March 31, 1897. Stats. 1897, p. 251.]

Citations. Cal. 139/265, 266, 267.

ACT 1114.

To authorize and empower the trustees of the California Home for Care and Training of Feeble-minded to transfer and quitclaim certain real property to the trustees of the town of Santa Clara. [Approved March 20, 1903. Stats. 1903, p. 319.]

ACT 1115.

An act to provide for certain improvements and repairs to the California Home for the Care and Training of Feeble-minded Children making an appropriation therefor. [Approved June 14, 1906. Stats. 1906, p. 27.]

The sum of \$72,500 was appropriated for the purpose indicated.

ACT 1116.

An act authorizing and directing the completion of the main buildings at the California Home for the Care and Training of Feeble-minded Children, near Eldridge, California, and making an appropriation therefor. [Approved March 11, 1907. Stats. 1907, p. 199. Amended 1909, p. 794.]

ACT 1117.

An act to authorize and enable the board of managers of the California Home for the Care and Training of Feeble-minded Children to convey certain real property. [Approved March 21, 1907. Stats. 1907, p. 781.]

TITLE 163.**FEEES.****ACT 1119.**

To regulate fees and salaries of certain officers. [Stats. 1869-70, p. 148.]

Amended 1869-70, pp. 677, 680; 1871-72, pp. 140, 178, 188, 219, 910; 1873-74, pp. 102, 204, 212, 885; 1877-78, pp. 134, 738.

"Repealed, as to the salaries and fees therein named, by the various County Government Acts, commencing with 1883, p. 299, and ending with 1897, p. 452. Repealed by fee bill of 1895, p. 267, as to the officers therein named; also repealed as to sundry counties by special acts relating to them. (Swinnerton v. Monterey Co., 76 Cal. 115; Sacramento Co. v. Colgan, 114 Cal. 246; County of Yolo v. Colgan, 132 Cal. 265.)"—Code Commissioner's Note.

This act was amended in 1871-72, p. 188, in relation to jurors' fees. It was held, in *Carpenter v. Jones*, 121 Cal. 362, that this act was not repealed by the codes, and had not been repealed by any subsequent act conflicting therewith, and that a court may refuse to try a civil case under that act until the jury fees are paid as therein provided for.

ACT 1120.

Concerning costs in civil actions for serving summonses and subpoenas. [Stats. 1891, p. 56.]

This act appears in full in Code of Civil Procedure, Appendix, p. 854. It provided for fees where the service was made by a person other than sheriff.

ACT 1121.

To provide and regulate the manner of receiving and paying fees, commissions, percentages, and other compensation for official services in cities and cities and counties having a population of over one hundred thousand inhabitants, and prescribing the duties of officers with reference thereto. [Approved March 11, 1893. Stats. 1893, p. 127.]

Amended 1895, p. 164.

Unconstitutional: *Bauer v. Williams*, 118 Cal. 401.

ACT 1122.

Relating to pension matters and claims against counties. [Stats. 1897, p. 55.]

See § 4302 of Political Code.

This act provided there should be no fees in these proceedings.

ACT 1123.

To establish the fees of county, township and other officers, and of jurors and witnesses in this state. [Approved March 23, 1895. Stats. 1895, p. 267.]

Citations. Cal. 118/645, 648; 115/548, 552; 117/84, 85; 121/484; 124/87, 88, 89; 125/50; 126/27; 127/51; 130/676, 677; 131/411, 413, 418; 134/547;

136/378; 138/272, 273; 141/397; 143/172, 173; 144/267, 268; 152/480. App. 5/64.

"Unconstitutional as to the requirement of a deposit on the appraised valuation of estates (*Fatjo v. Pfister*, 117 Cal. 83); also in so far as it provides that justices shall retain fees for their own use (*Reid v. Grozinger*, 115 Cal. 551); also as to the amount of justices' fees generally (*Dwyer v. Parker*, 115 Cal. 544; See *Conley v. Calaveras Co.*, 121 Cal. 482); also as to constables in counties of the thirty-fourth class (*Kiernan v. Swan*, 181 Cal. 410)."—Code Commissioner's Note.

This act superseded by §§ 4300, 4300a-4300k, 4301, Political Code.

ACT 1124.

An act for the payment of the fees due to trial jurors, who have served as such in the superior court of any county or city and county of this state, under the act of 1895. [Approved March 23, 1901. Stats. 1901, p. 684.]

ACT 1125.

An act forbidding the payment of municipal officers out of the funds of the county.

[Approved March 8, 1905. Stats. 1905, p. 88.]

§ 1. In no case shall the fees of a city justice of the peace, town or city recorder or city or town marshal, for services in any criminal action, be a charge against the county.

TITLE 164. FELTON.

ACT 1129.

Incorporating. [Stats. 1877-78, p. 185.]

TITLE 165. FENCES.

ACT 1134.

Concerning lawful fences. [Stats. 1850, p. 131.]

"Repealed as to many counties by the statute of 1855, p. 154, from which however, Amador, Butte, Calaveras, Colusa, Klamath, Nevada, Placer, San Bernardino, San Diego, Santa Barbara, Shasta, Siskiyou, Trinity, Tuolumne, and Yuba counties were omitted. The statute of 1855 was afterwards amended to include Butte, Calaveras, and Nevada. Special acts were passed relating to other counties, but the statute of 1850 has apparently not been repealed as to Amador, Klamath, San Diego, Santa Barbara, Siskiyou, and Trinity counties."—Code Commissioner's Note.

ACT 1135.

Concerning lawful fences. [Stats. 1855, p. 154.]

Amended 1858, p. 123; 1861, pp. 510, 513; 1863-64, p. 465. Supplemented 1860, p. 141.

This act excepted from its operation the counties of Butte, Amador, Tuolumne, Calaveras, San Diego, Nevada, San Bernardino, Colusa, Placer, Santa Barbara, Yuba, Trinity, Shasta, Klamath, and Siskiyou.

This act and the supplementary act of 1860, p. 141, were continued in force by the Political Code, § 19, and consequently the counties to which they apply are not subject to the provisions of § 841 of the Civil Code. (*Meads v. Watson*, 67 Cal. 591. See, also, *Gonzales v. Wasson*, 51 Cal. 295.)

ACT 1136.

Lawful fences, supplementing statute concerning. [Stats. 1860, p. 141.]

ACT 1137.

Concerning lawful fences in San Bernardino, Colusa, Shasta, Tehama, and Placer counties. [Stats. 1859, p. 279.]

Extended to Yuba County, 1868, p. 857. This latter act repealed, Stats. 1871-72, p. 700.

ACT 1138.

Division fences, construction of. [Stats. 1875-76, p. 175.]

Amended 1877-78, p. 765. Repealed, as to San Mateo County, 1877-78, p. 1019.

This act applied to the counties of Sacramento, Solano, Sutter, Yuba, Butte, Contra Costa, San Joaquin (parts of), Amador, San Luis Obispo, Santa Barbara, Ventura, Tulare, El Dorado, Tuolumne, San Mateo, and Nevada.

ACT 1139.

Regulating the height of division and partition fences in cities. [Stats. 1885, p. 45.]

Citations. Cal. 118/848.

Fences wholly on the land of their owner excluded therefrom: *Western etc. Co. v. Knickerbocker*, 108 Cal. 111.

ACT 1140.

To prevent persons from passing through inclosures and leaving them open, and tearing down fences to make passage through inclosures. [Stats. 1871-72, p. 384.]

See § 7, 1875-76, p. 408; 1877-78, pp. 49, 776.

Citations. Cal. 108/847.

Certain counties were exempted from the provisions of this act: See post, Act 1598, note.

Modified by § 602 of Penal Code, subd. 8: See note to § 602, Penal Code.

ACT 1141.

To prevent the leaving open of inclosures and hunting on inclosed lands. [Stats. 1875-76, p. 408.]

Amended 1877-78, pp. 49, 776.

Many sections codified: See post, Acts 1577, notes, and 1598, note.

TITLE 166.

FERRIES.

ACT 1146.

Concerning public ferries and toll bridges. [Stats. 1855, p. 183.]

Supplemented 1861, p. 18; 1862, p. 247; 1869-70, p. 887. Amended 1861, p. 807; 1863, pp. 720, 747, 758; 1863-64, p. 192; 1867-68, p. 77; 1872-74, p. 581. Superseded by Political Code, § 2843 et seq.

Citations. Cal. 7/115.

ACT 1147.

An act relating to ferries across navigable rivers separating counties, and empowering the boards of supervisors of such counties to establish and maintain ferries across such rivers, and to pay the expense thereof.

[Approved March 16, 1903. Stats. 1903, p. 156.]

§ 1. When a navigable river forms a boundary between two counties of this state, the boards of supervisors of such counties are hereby given the power to establish and operate a ferry or ferries across such stream.

§ 2. Each of such counties shall pay such proportion of the expenses of establishing and operating said ferry or ferries as may be agreed upon by the boards of supervisors of such counties.

§ 3. In case either of said counties shall refuse to enter into an agreement to establish and operate such ferry or ferries, the county situated upon the opposite bank of such river may establish and operate a ferry or ferries across such river, and such county is hereby empowered to acquire landing places for such ferry or ferries on the bank of such river opposite the boundary of such county, and may pay the expense of establishing and operating said ferry or ferries out of the general road fund of such county.

§ 4. This act shall take effect from and after its passage.

ACT 1148.

An act relating to ferries across rivers and streams wholly within one county, and empowering the boards of supervisors of such county to purchase, establish and maintain ferries across such rivers or streams and to pay the expenses thereof.

[Approved April 16, 1909. Stats. 1909, p. 974.]

§ 1. Whenever the board of supervisors of any county within the state of California shall deem it advisable and for the best interests of the public that the county own and operate any ferry within such county, such board may purchase, establish and operate a ferry or ferries across any stream or river within said county and may operate the same as a free ferry or ferries.

§ 2. Such board of supervisors is hereby empowered to acquire landing places for such ferry or ferries on the banks of such river or stream and may pay the expenses of establishing and operating said ferry or ferries out of the general road fund of said county; provided, however, that no supervisor or his bondsmen shall be responsible for the payment of damages incurred by any person while traveling on such ferry.

§ 3. This act shall take effect from and after its passage.

**TITLE 167.
FERRY DEPOT.**

ACT 1152.

To provide for the issuance and sale of state bonds to create a fund for the construction and furnishing, by the board of state harbor commissioners, of a general ferry and passenger depot in the city and county of San Francisco; to create a sinking fund for the payment of said bonds, and providing for the submission of this act to a vote of the people. [Approved March 17, 1891. Stats. 1891, p. 110.]

Citations. Cal. 111/582.

**TITLE 168.
FERTILIZERS.**

ACT 1157.

An act to regulate the sale of commercial fertilizers or materials used for manurial purposes, and to provide penalties for the infraction thereof, and means for the enforcement of the act.

[Approved March 20, 1903. Stats. 1903, p. 259.]

§ 1. Every lot, parcel, or package of commercial fertilizers or materials to be used for manurial purposes (excepting the dung of domestic animals), sold, offered, or exposed for sale, within this state, shall be accompanied by a plainly printed label, stating the name, brand, and trademark, if any there be, under which the fertilizer is sold, the name and address of the manufacturer, importer, or dealer, the place of manufacture, and a chemical analysis, stating the percentages claimed to be therein; of nitrogen, specifying the form or forms in which it is present; of phosphoric acid, available and insoluble; and of potash, soluble in distilled water, and the materials from which all of said constituents are derived. All analyses are to be made according to the methods agreed upon by the American association of official agricultural chemists. In the case of those fertilizers, the selling price of which is less than eight dollars (\$8) per ton, said label need only give a correct general statement of the nature and composition of the fertilizer it accompanies.

§ 2. No person shall sell, offer, or expose for sale in this state, any pulverized leather, hair, ground hoofs, horns, or wool waste, raw, steamed, roasted, or in any form as a fertilizer, or as an ingredient of a fertilizer or manure, without an explicit statement of the fact; said statement to be conspicuously affixed to every package of such fertilizer or manure, and to accompany and go with every lot, parcel, or package of the same.

§ 3. The manufacturer, importer, agent of, or dealer in any commercial fertilizers, or materials used for manurial purposes, the selling price of which to the consumer is eight (\$8) dollars or more per ton, shall, before the same is offered for sale, obtain a certificate of registration from the secretary of the board of regents of the University of California, countersigned by the director of the agricultural experiment station of the said university, authorizing the sale of fertilizers in this state, and

shall securely fix to each lot, parcel, or package of fertilizer the word "Registered" with the number of registry. The manufacturer, importer, agent, or dealer obtaining such registry, shall pay to the said secretary the sum of fifty (\$50) dollars, to be applied as provided in section 9 of this act; such registration shall expire on the thirtieth day of June of the fiscal year for which it was given; provided, the provisions of this section shall not apply to any agent whose principals shall have obtained a certificate of registration as herein provided. Every such manufacturer, importer, agent, or dealer, who makes or sells, or offers for sale, any such substances, under a name or brand, shall file, on or before the first day of July, in each year, a statement, under oath, with said director, stating such name or brand, and stating the component parts in accordance with the provisions of section 1 of this act, of the substances to be sold, or offered for sale, or manufactured under each such name or brand.

§4. The said director shall annually, on or before the first day of September, take samples in accordance with the provisions of section 5 hereof of the substance made, sold, or offered for sale, under every such name or brand, and cause analyses to be made thereof in accordance with the provisions of section 1 hereof, and said analyses may include such other determinations as said director may at any time deem advisable. Dealers in, or manufacturers of fertilizers, must give free access to the director of the agricultural experiment station, or his duly authorized deputy, to all the materials which they may place on the market for sale in California. Whenever the analysis certified by the said director shall show a deficiency of not more than one fourth of one per cent of nitrogen, or one per cent of soluble or available phosphoric acid, or one-half of one per cent of potash soluble in distilled water, the statement of the manufacturer or importer, as required in section 1 of this act, shall not be deemed to be false in the meaning of this act; provided, that this act shall not apply to sales of fertilizing materials made to a registered manufacturer of fertilizers, or to sales for export outside of this state; provided further, that the said director of the agricultural experiment station of the University of California shall, upon the receipt of a sample of fertilizer, accompanied with a nominal fee of two (\$2) dollars, furnish to the user of said commercial fertilizers, such examination or analysis of the sample as will substantially establish the conformity or non-conformity of the said fertilizer to the guarantee under which it was sold.

§5. The director of the agricultural experiment station of the University of California, in person or by deputy, is hereby authorized to take a sample not exceeding two pounds in weight for analysis by the said director, or his deputies, from any lot, parcel, or package of fertilizer, or material, or mixture of materials used for manurial purposes, which may be in the possession of any manufacturer, importer, agent, or dealer, but said sample shall be drawn in the presence of said party or parties in interest, or their representatives. In lots of five tons or less, samples shall be drawn from at least ten packages, or, if less than ten

packages are present, all shall be sampled; in lots of over five tons, not less than twenty packages shall be sampled. The samples so drawn shall be thoroughly mixed, and from it two equal samples shall be drawn and placed in glass vessels, carefully sealed, and a label placed on each, stating the name or brand of the fertilizer or material sampled, the name of the party from whose stock the sample was drawn, and the time and place of drawing; and said label shall also be signed by the said director or his deputy making such inspection, and by the party or parties in interest, or their representatives present at the drawing and sealing of said samples. One of said duplicate samples shall be retained by the party whose stock was sampled, and the other by the director of the agricultural experiment station of the University of California.

§ 6. The director of the agricultural experiment station of the University of California shall publish in bulletin form, from time to time, at least annually, the results of the analyses hereinbefore provided, with such additional information as circumstances may advise.

§ 7. There is hereby appropriated for the use of the agricultural experiment station of the University of California at Berkeley, Alameda County, as set forth in this act, out of any moneys in the treasury not otherwise appropriated, the sum of eighteen hundred (\$1,800) dollars for the equipment of a laboratory, with the chemicals and apparatus and other incidentals necessary to the successful prosecution of the work.

§ 8. In order to further provide for the necessary expenses of this work, there shall be paid by the manufacturer, importer, agent, or dealer, twenty-five cents for every ton of fertilizer sold, the selling price of which to the consumer is eight (\$8) dollars or more per ton. A statement sworn to by the manufacturer, importer, agent, or dealer, of such sales, shall be rendered quarterly to the secretary of the board of regents of the University of California, accompanied by the corresponding amount of special license fee as above specified; provided, that whenever the manufacturer or importer shall have paid the special license fee herein required, for any person acting as agent or seller for such manufacturer or importer, such agent or seller shall not be required to pay the special license fee named in this section. On receipt of said special license fee and statement, the said secretary shall issue to the manufacturer, importer, agent, or dealer, a certificate of compliance with this section.

§ 9. All moneys, whether received from registry and analytical fees or special license fees, shall be paid to the secretary of the board of regents of the University of California, for the use of said board in carrying out the provisions of this act.

§ 10. Any party selling, offering, or exposing for sale, any commercial fertilizer without the statement required by section 1 of this act, or with a label stating that said fertilizer contains a larger percentage of any one or more of the constituents mentioned in said section than is

actually contained therein, except as provided for in section 4, or respecting the sale of which all the provisions of this act have not been fully complied with, shall be deemed guilty of a misdemeanor, and upon conviction thereof before any court of competent jurisdiction, shall be fined in a sum not less than fifty (\$50) dollars and costs of action for the first offense, and one hundred (\$100) dollars and costs of the action for each subsequent offense. Said fines to be paid into the school fund of the county in which conviction is had.

§ 11. In any action, civil or criminal, in any court in this state, a certificate under the hand of said director, and the seal of said university, stating the results of any analysis, purporting to have been made under the provisions of this act, shall be prima facie evidence of the fact that the sample or samples mentioned in said analysis or certificate were properly analyzed as in this act provided; that such samples were taken as in this act provided; that the substances analyzed contained the component parts stated in such certificate and analysis; and that the samples were taken from the parcels or packages or lots mentioned or described in said certificate.

§ 12. This act shall take effect and be in force from and after July first, nineteen hundred and three.

TITLE 169. FIDDLTOWN.

ACT 1162.

To prevent hogs and goats running at large in. [Stats. 1873-74, p. 319.]

See § 9, Stats. 1897, p. 198; § 10, Stats. 1901, p. 608.

ACT 1163.

Name changed to Oleta. [Stats. 1877-78, p. 109.]

TITLE 170. FIRE.

ACT 1168.

Forest fires on public lands, act to prevent destruction by. [Stats. 1871-72, p. 96.]

Citations. Cal. 90/109.

Compare § 384, Penal Code: See note to § 384, Penal Code.

ACT 1169.

To prevent the destruction by fire of the property of contiguous owners. [Stats. 1891, p. 473.]

Citations. Cal. 109/95.

This act made it a misdemeanor to start a fire in hay, grain, stubble, or grass without first taking certain precautions.

Codified by § 384a, which was adopted in 1905, p. 758, and repealed 1907, p. 998: See Penal Code, § 384a, of Penal Code, 1905.

TITLE 171.
FIRE DEPARTMENT.

ACT 1178.

An act to create a firemen's relief, health, and life insurance and pension fund in the several counties, cities and counties, cities, and towns of the state.

[Approved March 20, 1905. Stats. 1905, p. 412.]

§ 1. The chairman of the board of supervisors of the county, city and county, city or incorporated town in which there is no board of fire commissioners, the treasurer of the county, city and county, or incorporated town, and the chief of the fire department, and their successors in office, are hereby constituted a board of trustees of the firemen's relief or pension fund of the fire department, to provide for the disbursement of the same and to designate the beneficiaries thereof as hereinafter directed, which board shall be known as the "Board of Firemen's Pension Fund Commissioners"; provided, however, that where there is in any county, city and county, city, or town, a board of fire commissioners, then such body shall constitute said board of trustees of the firemen's relief and pension fund of the fire department.

§ 2. They shall organize as such board by choosing one of their number as chairman, and by appointing a secretary. The treasurer of the county, city and county, city, or town, shall be ex officio treasurer of said fund. Such board of trustees shall have charge of and administer said fund, and to order payments therefrom in pursuance of the provisions of this act. They shall report annually, in the month of June, to the board of supervisors, or other governing authority of the county, city and county, city, or incorporated town, the condition of the firemen's relief and pension fund, and the receipts and disbursements on account of the same, with a full and complete list of the beneficiaries of said fund and the amounts paid them.

§ 3. Whenever any person at the taking effect of this act, or thereafter shall have been duly appointed or selected and sworn, and have served for twenty years, or more, in the aggregate, as a member, in any capacity or any rank whatever, of the regularly constituted fire department of any such county, city and county, city, or town which may hereafter be subject to the provisions of this act, said board may, if it see fit, order and direct that such person after becoming sixty years of age be retired from further service in such fire department, and from the date of the making of such order the service of such person in such fire department shall cease, and such person so retired shall thereafter, during his lifetime, be paid from such a fund a yearly pension equal to one-half of the amount of salary attached to the rank which he may have held in said fire department for the period of one year next preceding the date of such retirement.

§ 4. Whenever any person, while serving as a fireman in any such county, city and county, city, or town, shall become physically disabled

by reason of any bodily injury received in the immediate or direct performance or discharge of his duty as such fireman, said board may, upon his written request, or without such request, if it deem it to be for the good of said fire department force, retire such person from said department, and order and direct that he shall be paid from said fund, during his lifetime, a yearly pension equal to one-half of the amount of salary attached to the rank which he may have held on such fire department force at the date of such retirement, but on the death of such pensioner his heirs or assigns shall have no claim against or upon such firemen's relief or pension fund; provided, that whenever such disability shall cease such pension shall cease, and such person shall be restored to active service at the same salary he received at the time of his retirement.

§ 5. No person shall be retired, as provided in the next preceding section, or receive any benefit from said fund, unless there shall be filed with said board certificates of his disability, which certificates shall be subscribed and sworn to by said person, and by the county, city and county, city, or town physician (if there be one), and two regularly licensed practicing physicians of such county, city and county, city, or town, and such board may require other evidence of disability before ordering such retirement and payment as aforesaid.

§ 6. Whenever any member of the fire department of such county, city and county, city, or town, shall lose his life while in the performance of his duty, leaving a widow, or child or children under the age of sixteen years, then upon satisfactory proof of such facts made to it, such board shall order and direct that a yearly pension, equal to one-third the amount of the salary attached to the rank which such member held in said fire department at the time of his death, shall be paid to such widow during her life, or if no widow, then to the child or children, until they shall be sixteen years of age; provided, if such widow, or child or children, shall marry, then such person so marrying shall thereafter receive no further pension from such fund.

§ 7. Whenever any member of the fire department of such county, city and county, city, or town, shall, after ten years of service, die from natural causes, then his widow or children, or if there be no widow or children, then his mother or unmarried sisters, shall be entitled to the sum of one thousand dollars from such fund.

§ 8. Any person retired for disability under this act may be summoned before the board herein provided for at any time thereafter, and shall submit himself thereto for examination as to his fitness for duty, and shall abide the decision and order of such board with reference thereto; and all members of the fire department force who may be retired under the provisions of this act shall report to the chief of the fire department of the county, city and county, city, or town where so retired, on the first Mondays of April, July, October, and January of each year; and in cases of great public emergency may be assigned to

and shall perform such duty as said chief of the fire department may direct; and such persons shall have no claim against the county, city and county, city, or town, for payment for such duty so performed.

§ 9. When any person who shall have received any benefit from said fund shall be convicted of any felony, or shall become an habitual drunkard, or shall become a nonresident of this state, or shall fail to report himself for examination for duty as required herein, unless excused by the board, or shall disobey the requirements of said board under this act, in respect to said examination or duty, then such board shall order that such pension allowance as may have been granted to such person shall immediately cease, and such person shall receive no further pension, allowance, or benefit under this act.

§ 10. The board herein provided for shall hold quarterly meetings on the first Mondays of April, July, October, and January of each year, and upon the call of its president; it shall biennially select from its members a president and secretary; it shall issue warrants, signed by its president and secretary, to the persons entitled thereto of the amount of money ordered paid to such persons from such fund by said board, which warrant shall state for what purpose such payment is to be made; it shall keep a record of all its proceedings, which record shall be a public record; it shall, at each quarterly meeting, send to the treasurer of the county, city and county, city, or town, and to the auditor of such county, city and county, city, or town, a written or printed list of all persons entitled to payment from the fund herein provided for, stating the amount of such payments and for what granted, which list shall be certified to and signed by the president and secretary of such board, attested under oath. The auditor shall thereupon enter a copy of said list upon a book to be kept for that purpose, and which shall be known as "The firemen's relief and pension fund book." When such list has been entered by the auditor, he shall transmit the same to the board of supervisors, or other governing authority of such county, city and county, city, or town, which board of authority shall order the payment of the amounts named therein out of "The firemen's relief and pension fund." A majority of all the members of said board herein provided for shall constitute a quorum, and have power to transact business.

§ 11. The board herein provided for shall, in addition to other powers herein granted, have power,—

First—To compel witnesses to attend and testify before it, upon all matters connected with the operation of this act, in the same manner as is or may be provided by law for the taking of testimony before notaries public; and its president, or any member of said board, may administer oaths to such witnesses.

Second—To appoint a secretary, and to provide for the payment from said fund of all its necessary expenses including secretary hire and printing; provided, that no compensation or emolument shall be paid to any member of said board for any duty required or performed under this act.

Third—To make all needful rules and regulations for its guidance, in conformity with the provisions of this act.

§ 12. The board of supervisors, or other governing authority, of any county, city and county, city, or town, shall, for the purposes of said "firemen's relief and pension fund" hereinbefore mentioned, direct the payment annually, and when the tax levy is made, into said fund, of the following moneys:—

First—All rewards given or paid to members of such firemen's force.

Second—All fines imposed upon members of the fire department in keeping with rules and regulations of the department.

Third—The treasurer of any county, city and county, city, or town, shall retain from the pay of each member of the fire department the sum of two per cent of each month's pay to be forthwith paid into said firemen's relief and pension fund, and no other or further retention or deduction shall be made from such pay for any other fund.

Fourth—One-half of all fines imposed and collected for violation of laws pertaining to precaution against fire.

§ 13. Any firemen's life and health insurance fund, or any fund provided by law, heretofore existing in any county, city and county, city, or town, for the relief or pensioning of firemen, or their life or health insurance, or for the payment of a sum of money on their death, shall be merged with, paid into, and constitute a part of the fund created under the provisions of this act; and no person who has resigned or been dismissed from said fire department shall be entitled to any relief from such fund; provided, that any person who, within one year prior to the passage of this act, has been dismissed from the fire department for incompetency or inefficiency, and which incompetency or inefficiency was caused solely by sickness or disability contracted or suffered while in service as a member thereof, and who has, prior to said dismissal, served for twelve or more years as such member, shall be entitled to all the benefits of this act.

§ 14. On the last day of June of each year, or as soon thereafter as practicable, the auditor of such county, city and county, city, or town, shall make a report to the board of supervisors, or other governing authority of such county, city and county, city, or town, of all moneys paid out on account of said fund during the previous year, and of the amount then to the credit of the "firemen's relief and pension fund," and all surplus of said fund then remaining in said fund exceeding the average amount per year paid out on account of said fund during the three years next preceding, shall be transferred to and become a part of the general fund of every such county, city and county, city, or town, and no longer under the control of said board, or subject to its order. Payments provided for in this act shall be made quarterly, upon proper vouchers.

ACT 1174.

To allow unincorporated cities and towns to equip and maintain a fire department. [Stats. 1881, p. 26.]

Amended 1899, p. 69; 1909, p. 1028.

This act, as amended in 1899 and 1909, appears in full in Political Code, Appendix, tit. "Fire Department."

ACT 1175.

To create a firemen's relief, health, and life insurance, and pension fund in the several counties, cities and counties and cities and towns of this state. [Stats. 1901, p. 101.]

Amended 1908, p. 158.

Probably superseded by act of March 30, 1905, creating a firemen's relief, health and life insurance pension fund. See ante, Act 1173.

ACT 1176.

To create an exempt firemen's relief fund in the several counties, cities and counties, cities and towns of the state, and relating to the enrollment, formation into fire companies, and services as firemen of such exempt firemen. [Stats. 1895, p. 107.]

Unconstitutional: *Taylor v. Mott*, 128 Cal. 497. Superseded 1901, p. 101.

ACT 1177.

To require the payment of certain insurance premiums by fire insurance companies not organized in California, to cities and cities and counties. [Stats. 1885, p. 13.]

Amended 1887, p. 15.

Unconstitutional: *San Francisco v. Insurance Co.*, 74 Cal. 112.

The moneys collected under this act were for the benefit of the firemen's relief fund.

ACT 1178.

Authorizing boards of supervisors to provide pensions for the relief of aged, infirm, and disabled firemen. [Stats. 1889, p. 108.]

Amended 1901, p. 575.

Citations. Cal. 128/499.

This act appears in full in Political Code, Appendix, tit. "Fire Department."

ACT 1179.

Authorizing and requiring boards or commissions having the management and control of paid fire departments, to grant the members thereof yearly vacations. [Stats. 1895, p. 76.]

Amended 1899, p. 57; 1905, p. 39.

Citations. App. 4/288.

This act appears in full in Political Code, Appendix, tit. "Fire Department."

ACT 1180.

Relating to salaries of officers of fire departments in municipalities of the first class. [Stats. 1897, p. 54.]

Unconstitutional: *Popper v. Broderick*, 128 Cal. 456.

ACT 1181

Relating to fire departments of municipalities of the first class, and fixing the salaries of officers thereof. [Stats. 1897, p. 192.]

Apparently unconstitutional under the rule announced in *Popper v. Broderick*, 138 Cal. 456.

This act appears in full in Political Code, Appendix, tit. "Fire Department."

ACT 1182.

To provide for increasing the efficiency of fire departments within municipalities of the first class in the state of California. [Stats. 1897, p. 61.]

This act appears in full in Political Code, Appendix, tit. "Fire Department."

TITLE 172.**FIRE DISTRICTS.****ACT 1184.**

An act to provide for the disincorporation and discontinuance of fire districts where the same become wholly or partly within the corporate limits of a town or city, incorporated subsequently to the organization thereof, and providing for the disposal of the property of such districts.

[Approved March 20, 1909. Stats. 1909, p. 576.]

§1. Whenever the territory comprising a fire district organized under the laws of this state, governing the organization and establishment of fire districts and fire departments in unincorporated towns or villages in this state, shall be wholly within, or be identical with the corporate limits of a town or city, which shall have become incorporated as a municipality, after said fire district was organized and established, the board of supervisors of any county in which any such fire district shall have been or may be hereafter established at any time, upon the written verified petition of the inhabitants of any such fire district, whose names appear upon the last preceding assessment-roll of the county, town or city within which said fire district is located, owning or representing more than one-half in value of the assessed real property of such fire district, or owning or representing more than one-half in value of the assessed real property in such fire district owned by the residents thereof, may, by a resolution adopted and entered in their minutes, discontinue such fire district, and declare the same to be disincorporated; and upon such action being taken by said board of supervisors, the board of fire commissioners of such fire district, shall turn over to any fire department organized by the board of trustees of said town or city, or to the board of trustees of said town or city, all the property of such fire district or fire department; such town or city to pay all the debts of said fire district, and department, and thereupon said fire district shall be discontinued and disincorporated.

§2. Whenever any portion of the territory of any fire district heretofore or hereafter established shall be incorporated into the corporate

limits of any incorporated town or city, the board of supervisors of the county in which such fire district is located, upon the written verified petition of the inhabitants of such incorporated portion of such fire district, whose names appear upon the last preceding assessment-roll of the county, city or town within which said incorporated portion of said fire district is located, owning or representing more than one-half in value of the assessed real property in such incorporated portion of such fire district; or owning or representing more than one-half in value of the assessed real property within such incorporated portion of such fire district owned by the residents thereof, shall by a resolution duly adopted and entered in their minutes, change the boundaries of such fire district, in such manner as shall exclude such incorporated portion from such fire district, and thereafter such incorporated portion of such fire district, shall cease to be a portion of said fire district, and shall not be entitled to the protection of, nor liable to be assessed or taxed for the support and maintenance of the fire department of such fire district.

§ 3. A certified copy of any resolution of said board of supervisors, discontinuing, and disincorporating such fire district or excluding a portion therefrom, or changing the boundaries thereof, after being adopted, and duly signed by the chairman of said board and the clerk thereof, and the seal of said board affixed thereto, and duly certified to by the clerk of said board, shall within ten days after the adoption thereof by said board, be filed by the clerk of said board in the office of the county recorder of the said county in which said fire district is located, and the said recorder shall record the same, but shall not make any charge or collect any fees for filing or recording the same.

§ 4. This act shall take effect and be in force from and after its passage.

TITLE 173.

FIRE PATROL.

ACT 1188.

Underwriters, authorizing the establishment of the fire patrol by. [Stats. 1875-76, p. 689.]

Amended 1897, p. 228.

Codified by §§ 458a-458c of Civil Code: See note to § 458a, Civil Code.

TITLE 174.

FISCAL YEAR.

ACT 1193.

Providing for changing the fiscal year of cities in this state operating under a charter framed under section 8, article 11, of the constitution. [Stats. 1895, p. 128.]

FISH AND GAME.

See "Game Laws."

FISH COMMISSIONERS.

See "Game Laws."

TITLE 175.

FLAG.

ACT 1198.

To prohibit the desecration of the flag of the United States, and provide a punishment therefor. [Stats. 1899, p. 46.]

TITLE 176.

FOLSOM.

ACT 1203.

To prevent goats from running at large in. [Stats. 1875-76, p. 385.]
Repealed in 1897, p. 198. See 1901, p. 603.

TITLE 177.

FORCIBLE ENTRY.

ACT 1208.

Concerning forcible entries and unlawful detainers. [Stats. 1863, p. 652.]

Amended 1871-72, p. 318.

Citations. Cal. 41/861; 44/195; 51/182, 184.

Effect of code on: See *Norblatt v. Farwell*, 38 Cal. 155; *Hemstreet v. Wasson*, 49 Cal. 278.

TITLE 178.

FORECLOSURE.

ACT 1213.

Foreclosure suits, abolishing attorneys' fees in. [Stats. 1873-74, p. 707.]

This act appears in full in Code of Civil Procedure, Appendix, p. 864. It is provided that the fees of attorneys should be fixed by the court, notwithstanding a stipulation in the mortgage to the contrary.

Citations. Cal. 55/51; 60/483; 62/398; 72/570; 84/207; 119/809; 128/557.

TITLE 179.

FORESTRY.

See "Agriculture"; "Fruit-Trees and Vines"; "Horticulture"; "Viticulture"; "Silk Culture."

ACT 1215.

An act to create a fund to be known as the United States forest reserve fund and to provide for the payment out of such fund to the treasuries of the several counties entitled thereto of certain moneys received from the government of the United States, and also to regulate the manner of expenditure by the counties of the moneys so paid. [Approved March 18, 1907. Stats. 1907, p. 346.]

Amended 1909, p. 550.

ACT 1216.

An act to provide for the regulation of fires on, and the protection and management of, public and private forest lands within the state of California, creating a state board of forestry and certain officers subordinate to said board, prescribing the duties of such officers, creating a forestry fund, and appropriating the moneys in said fund, and defining and providing for the punishment of certain offenses for violations of the provisions of this act, and making an appropriation therefor.

[Approved March 18, 1905. Stats. 1905, p. 235.]

"Of. §§ 14 and 15 with Penal Code, §§ 384, 384a, 384b (1905, pp. 757, 758). See, also, § 38½, added to County Government Act of 1897 (1905, p. 394), and Civil Code, § 3846a, as adopted in 1905 (1905, p. 621)."—Code Commissioners' Note.

§ 1. State board of forestry.—There shall be a state board of forestry, consisting of the governor, secretary of state, attorney general and state forester, which shall supervise all matters of state forest policy and management and convene upon the call of the governor or of its secretary.

§ 2. State forester and his duties.—There shall be a state forester, who shall be a civil executive officer, and who shall be a technically trained forester, appointed by the governor to hold office at the pleasure of the appointing power; and whether any candidate for the position is a technically trained forester shall be determined by certificate from the secretary of the United States Department of Agriculture, or from the Department of Forestry of the State University after such department is established. He shall receive a salary of twenty-four hundred dollars per annum, and shall be authorized and empowered to appoint two assistant foresters, whose salaries shall not exceed twelve hundred dollars each per annum. He shall maintain headquarters at the state capitol in an office provided by the secretary of state, and shall be allowed necessary office and contingent expenses. He and his assistants shall be paid reasonable traveling and field expenses which may be incurred in the necessary performance of their official duties. He shall act as secretary of the state board of forestry. He shall, under the supervision of the state board of forestry, execute all matters pertaining to forestry within the jurisdiction of the state; have charge of all fire wardens in the state, and direct and aid them in their duties; direct the protection and improvement of state parks and forests; collect data relative to forest destruction and conditions; take such action as is authorized by law to prevent and extinguish forest, brush and grass fires; enforce all laws pertaining to forest and brush-covered land, and prosecute for any violation of such laws; co-operate with land owners, as described in section 4 of this act; and publish from time to time such information of forestry as he may deem wise. He shall prepare annually a report to the governor on the progress and condition of state forest work, and

recommend therein plans for improving the state system of forest protection, management and replacement.

§ 3. *Supervision and care of state parks.*—The California Redwood Park and the Mt. Hamilton tract, together with all moneys heretofore or hereafter appropriated for the purchase of land for or care of said parks, tracts and stations, shall be in charge of the state board of forestry, said board to take place of and forthwith shall have all the powers and duties now possessed in accordance with law by persons or commissions with regard to the state parks, tracts of land, and forest stations mentioned in this act, and also any forest or brush land which may hereafter become state property, or be placed definitely in the care of the state; and it is hereby further enacted that, if the government of the United States or any individual or corporation shall, at any time, donate or entrust to the state of California, for state park or state forest reserve purposes, any tract or tracts of wholly or partially wooded land, such tract or tracts of land shall be administered at the expense of the state, as provided by law.

§ 4. *Co-operative work.*—The state forester shall, upon request and whenever he deems it essential to the best interests of the people and the state, co-operate with counties, towns, corporations and individuals in preparing plans for the protection, management and replacement of trees, woodlots and timber tracts, on consideration and under an agreement that the parties obtaining such assistance pay at least the field expenses of the men employed in preparing said plans.

§ 5. *Publication of laws and notices.*—The state forester shall prepare and print for public distribution, an abstract of all the forest laws of California, together with such rules and regulations in accord therewith as he may deem necessary, and shall annually print and distribute a list of all fire wardens with their addresses, all such matters to be published with the approval of the state board of forestry. He shall also furnish notices, printed in large letters on cloth, calling attention to the danger from forest fires and to forest fire and trespass laws and their penalties. Such notices shall be posted by the fire-wardens in conspicuous places along every highway in brush and forest covered country, at frequent intervals along streams and lakes frequented by tourists, hunters or fishermen, at established camping sites, and in every postoffice in the forested region.

§ 6. *Fire districts.*—The state forester shall divide the state into such number of fire districts as shall be deemed by him most necessary to the efficiency of his work; and, furthermore, any county, or combination of less than four counties, shall be made a separate fire district, upon request of the county board or board of supervisors, in which case such special fire district shall pay the cost of maintaining its district fire-warden.

§ 7. *Duties of assistant foresters.*—The duties of the assistant foresters shall be to devote their entire time to state forest interests according
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to rules and directions to be determined by the state forester, with the approval of the state board of forestry. They shall take prompt measures to prevent and extinguish forest fires; keep a record of the cause, extent and damage of all forest fires in their respective districts, and perform such other duties as the state forester may direct.

§ 8. *Voluntary fire-wardens and their duties.*—The state forester shall appoint, in such number and localities as he deems wise, public-spirited citizens to act as voluntary fire-wardens, who may receive payment for their services from the counties or from private sources. They shall promptly report all fires and take immediate and active steps toward their extinguishment, report any violation of the forest laws, assist in apprehending and convicting offenders, and perform such other duties as the state forester may direct. The supervisors and rangers on the federal forest reserve within the state, whenever they formally accept the duties and responsibilities of fire-wardens, may be appointed as voluntary fire-wardens, and shall have all the powers given to fire-wardens by this act.

§ 9. *Powers and requirements of fire-wardens.*—The state forester and all fire-wardens shall have the powers of peace officers to make arrests without warrant, for violations of any state or federal forest laws, and no fire-warden shall be liable to civil action for trespass committed in the discharge of his duties. Any fire-warden who has information which would show, with reasonable certainty that any person had violated any provision of such forest laws, shall immediately take action against the offender, either by using his own powers as a peace officer, or by making complaint before the proper magistrate, or by information to the proper district attorney, and shall obtain all possible evidence pertaining thereto. Failure on the part of any paid fire-warden to comply with the duties prescribed by this act shall be a misdemeanor, and punishable by a fine of not less than twenty dollars, nor more than two hundred and fifty dollars, or imprisonment for not less than ten days nor more than three months, or both such fine and imprisonment and the state forester is hereby authorized to investigate and prosecute such violations.

§ 10. *Assistance of citizens in fighting fires.*—All fire-wardens shall have authority to call upon able-bodied citizens between the ages of sixteen and fifty years, for assistance in putting out fires, and any such person who refuses to obey such summons, unless prevented by good and sufficient reasons, is guilty of a misdemeanor, and must be fined in a sum not less than fifteen dollars, nor more than fifty dollars, or imprisonment in the county jail of the county in which such conviction shall be had, not less than ten days, nor more than thirty days, or both such fine and imprisonment; provided, that no citizen shall be called upon to fight fire a total of more than five days in any one year.

§ 11. *Fire patrol.*—In times and localities of particular fire danger the state forester may maintain a fire patrol through the fire-wardens, at such places in brush or forest land as the public interest may require,

the expense of such patrol to be paid by the county in which such patrol is maintained; and, furthermore, he may, upon written request by counties, corporations or individuals, maintain a fire patrol on their forest lands, provided, that the expense of said patrol be paid by the party or parties requesting same.

§ 12. *District attorneys to prosecute vigorously.*—Whenever an arrest shall have been made for violation of any provision of this act, or whenever any information of such violation shall have been lodged with him, the district attorney of the county in which the criminal act was committed must prosecute the offender or offenders with all diligence and energy. If any district attorney shall fail to comply with the provisions of this section he shall be guilty of a misdemeanor, and, upon conviction, shall be fined not less than one hundred dollars nor more than one thousand dollars in the discretion of the court. Action against the district attorney shall be brought by the attorney general in the name of the people of the state on the relation of the state forester. The penalties of this section shall apply to any magistrate with proper authority, who refuses or neglects to cause the arrest and prosecution of any person or persons when complaint, under oath, of violation of any terms of this act has been lodged with him.

§ 13. *Destruction of warning notices.*—Any person who shall destroy, deface, remove or disfigure any sign, poster or warning notice posted under the provisions of this act shall be guilty of a misdemeanor and punishable, upon conviction, by a fine of not less than fifteen dollars nor more than one hundred dollars, or imprisonment in the county jail for a period of not less than ten days nor more than three months, or both such fine and imprisonment.

§ 14. *Willfully, maliciously and negligently setting forest fires.*—Every person who willfully, maliciously or negligently sets on fire or causes or procures to be set on fire any woods, brush, prairies, grass, grain or stubble on any lands not his own, or allows the fire to escape from his own land, whereby any property of another is injured or destroyed, or accidentally sets any such fire or allows it to escape from his control without extinguishing it or using every effort to extinguish it, shall be guilty of a misdemeanor, and upon conviction is punishable by a fine of not less than fifty dollars, nor more than one thousand dollars, or imprisonment for not less than thirty days, nor more than one year, or both such fine and imprisonment. Setting such fires or allowing them to escape shall be prima facie proof of willfulness, malice or neglect under this section, provided, that nothing herein contained shall apply to a person who, in good faith, sets a back-fire to check a fire already burning.

§ 15. *Extinguishment of camp-fires.*—Every person who upon departing from a camp or camping place, leaves fire burning or unextinguished, or who after building such fire allows it to spread, shall be guilty of a misdemeanor and punishable by a fine of not less than fifty dollars nor

more than five hundred dollars, with costs of suit and collection, one-half of such fine or such a portion thereof as shall not exceed fifty dollars, to be paid to the person securing the arrest and conviction of such offender, and if the defendant refuses or neglects to pay the fine and costs imposed, he shall be confined in the county jail of the county in which conviction shall be had, for a period not to exceed one day for every two dollars of the fine imposed, or may be subject to both such fine and imprisonment.

§ 16. *Restriction of use of fire in dry season.*—It shall be unlawful during what is locally known as the "dry season," this to be considered as the period between May fifteenth and the first soaking rains of autumn or winter, for any person or persons to burn brush, stumps, logs, fallen timber, fallows, grass or forest-covered land, or blast wood with dynamite, powder or other explosives, or set off fire-works of any kind in forest or brush-covered land, either their own or the property of another, without written permission of and under the direction or supervision of a fire-warden in that district; these restrictions not to apply to the ordinary use of fire or blasts in logging redwood, nor in cases where back-fires are set in good faith to stop an existing fire. Violation of these provisions shall be a misdemeanor, punishable, upon conviction, by a fine of not less than fifty dollars, nor more than one thousand dollars, or imprisonment not less than thirty days nor more than one year, or both such fines and imprisonment.

§ 17. *Engines in forest land.*—Logging, locomotives, donkey or threshing engines, and other engines and boilers operated in, through or near forests, brush or grass land, which do not burn oil as fuel, shall be provided with appliances to prevent the escape of fire and sparks from the smoke-stacks thereof, and with devices to prevent the escape of fire from ash-pans and fire-boxes. Failure to comply with these requirements shall be a misdemeanor, punishable, upon conviction, by a fine of not less than one hundred dollars nor more than five hundred dollars, and any person violating any provisions of this section shall be liable to a penalty of not less than fifty dollars nor more than one hundred dollars, for every such violation, or imprisonment for not less than thirty days nor more than three months, or both such fine and imprisonment.

§ 18. *Civil liability for forest fires.*—In addition to the penalties provided in sections 14, 15, 16 and 17, of this act, the United States, state, county, or private owners, whose property is injured or destroyed by such fires, may recover, in a civil action, double the amount of damages suffered if the fires occurred through willfulness, malice or negligence; but if such fires were caused or escaped accidentally or unavoidably, civil action shall lie only for the actual damage sustained as determined by the value of the property injured or destroyed, and the detriment to the land and vegetation thereof. The presumption of willfulness, malice or neglect shall be overcome, provided, that the precautions set forth in section 17 are observed; or, provided, under section 16, fires are set during the "dry season" with written permission of and under the

direction of the district fire-warden. Persons or corporations causing fires by violations of sections 14, 15, 16 and 17 of this act shall be liable to the state or county in action for debt, to the full amount of all expenses incurred by the state or county in fighting such fires.

§ 19. *Clearing along county roads and land after lumbering.*—Counties, along the county roads, in forest or brush land, shall, when so directed by the state forester, and in a manner and to an extent prescribed by him, cut and remove all brush, grass and inflammable material from their rights of way. If such clearing is not done within a reasonable time after notice, said time to be fixed by the state forester, the state forester shall have it done and the county shall be liable to the state in an action for debt to the amount of the expense thus incurred, and in addition thereto for the expense of any fire patrol rendered necessary by such delay. It is provided, further, that all lumber companies, corporations, or individuals shall, when so instructed by the state board of forestry, and at a time and in a manner prescribed by said board, carefully burn their slashings, by which is meant the tops, limbs, and general debris left after lumbering.

§ 20. *Disposals of moneys received as penalties.*—All moneys received as penalties for violations of the provisions of this act, less the cost of collection, and not otherwise provided for, shall be paid into the state treasury to the credit of the forestry fund, which fund is hereby created, and the moneys therein are hereby appropriated for purposes of forest protection, management and replacement under direction of the state board of forestry.

§ 21. *Moneys for forest purposes.*—County boards of supervisors may appropriate money for purposes of forest protection, improvement and management.

§ 22. *Payment of expenses under this act.*—There is hereby appropriated for the fifty-seventh and fifty-eighth fiscal years, the sum of seventeen thousand six hundred dollars (\$17,600) for carrying out the provisions of this act, and for the payment of all salaries and expenses herein provided for.

§ 23. All acts or parts of acts inconsistent with the provisions of this act are hereby repealed.

ACT 1217.

An act to appropriate one hundred thousand dollars from any moneys hereafter collected and received by the state of California from the United States in payment of the claims of this state arising out of the Indian and civil wars, to be expended in the acquisition, preservation, and protection of the forests of this state; creating the state board of examiners a commission to carry this act into effect and for the disbursement of said moneys, and creating the "state forestry fund." [Stats. 1905, p. 183.]

ACT 1218.

To create a state board of forestry, and to provide for the expenses thereof. [Approved March 3, 1885. Stats. 1885, p. 10.]

Repealed 1898, p. 229.

ACT 1219.

To enlarge the powers of the state board of forestry, and to provide for the expenses of said board. [Approved March 7, 1887. Stats. 1887, p. 46.]

This act was not in terms repealed by the body of the act of March 23, 1893, p. 229, although its title purported to repeal the act, but it probably fell with the repeal of the act on which it was based.

ACT 1220.

An act to provide for the reforestation, the cutting of fire lanes and fire trails on the San Bernardino forest reserve, and to make an appropriation therefor. [Approved March 11, 1907. Stats. 1907, p. 206.]

ACT 1221.

An act to provide for the reforestation, the cutting of fire lanes and fire trails on the San Bernardino forest reserve, and to make an appropriation therefor. [Approved April 14, 1909. Stats. 1909, p. 868.]

ACT 1222.

An act to fix the salaries of the state forester, deputy forester and assistant forester.

[Approved March 22, 1909. Stats. 1909, p. 669.]

§ 1. The salary of the state forester shall be three thousand dollars per annum, that of the deputy forester eighteen hundred dollars per annum, and that of the assistant forester sixteen hundred dollars per annum, all such salaries to be paid as the salaries of other state officers are paid.

§ 2. All acts and parts of acts inconsistent with this act are hereby repealed.

TITLE 180.**FORT JONES.****ACT 1225.**

Incorporation of. [Stats. 1871-72, p. 387.]

TITLE 181.**FRANCHISES.****ACT 1228.**

An act providing for the cancellation of bonds given to secure the performance of the terms and conditions of franchises or privileges granted by the legislative or other governing body of counties or

municipalities, the release of the sureties on such bonds, and the filing and acceptance of new bonds in lieu thereof.

[Approved March 20, 1907. Stats. 1907, p. 747.]

§1. That in all cases where a bond or bonds have been given to secure the observance, fulfillment and performance of each and every term or condition, terms or conditions, or any thereof, of a franchise or privilege granted by a board of supervisors, board of trustees or common council, or other governing or legislative body of any county, city and county, city or town within this state, the governing or legislative body of such county, city and county, city or town may, upon the petition of the owner of said franchise or privilege, or upon the petition of the sureties on said bond or bonds, or upon the petition of any one or more of said sureties, cancel and annul said bond or bonds, and release the sureties thereon from any future liability, and accept and take in lieu thereof a new bond or bonds to be approved by the governing or legislative body of such county, city and county, city or town, in the same penal sum and containing the same terms and conditions as the bond or bonds so canceled and annulled; which new bond or bonds must be executed by the owner of said franchise or privilege and by new sureties satisfactory to the governing or legislative body of such county, city and county, city or town; provided, that any person, firm or corporation who acted as surety on the old bond or bonds so canceled and annulled may act as surety on the new bond or bonds, if the same be satisfactory to the governing or legislative body of such county, city and county, city or town.

§2. Immediately upon the acceptance by the governing or legislative body of such county, city and county, city or town of any new bond or bonds, filed with the governing or legislative body of such county, city and county, city or town as herein provided for, the old bond or bonds shall become canceled and annulled, and the sureties thereon shall by such cancellation and annulment be released from any future liability on such old bond or bonds, but such cancellation and annulment shall not release said sureties from any past liability; and thereafter the new bond or bonds, herein provided for, shall take the place of such old bond or bonds.

§3. This act shall take effect immediately.

ACT 1229.

An act providing for the sale of street railroad and other franchises in counties and municipalities, and providing conditions for the granting of such franchises by legislative or other governing bodies, and repealing conflicting acts.

[Approved March 22, 1905. Stats. 1905, p. 777.]

Amended 1909, p. 125.

Citations. Cal. 158/712, 718, 715.

§1. Every franchise or privilege to erect or lay telegraph or telephone wires, to construct or operate street or interurban railroads upon

any public street or highway, to lay gas-pipes for the purpose of carrying gas for heat and power, to erect poles or wires for transmitting electric heat and power along or upon any public street or highway, or to exercise any other privilege whatever hereafter proposed to be granted by boards of supervisors, boards of trustees, or common councils, or other governing or legislative bodies of any county, city and county, city or town within this state, except steam railroads and except telegraph or telephone lines doing an interstate business, and renewals of franchises for piers, chutes or wharves, shall be granted upon the conditions in this act provided, and not otherwise.

§ 2. An applicant for any franchise or privilege above mentioned shall file with the governing or legislative body of the county or municipality an application, and thereupon said governing body shall, in its discretion, advertise the fact of said application, together with a statement that it is proposed to grant the same, in one or more newspapers of the county, city and county, city or town wherein the said franchise or privilege is to be exercised. Said advertisement must state that bids will be received for such franchise, and that it will be awarded to the highest bidder, and the same must be published in such newspaper once a day for ten successive days, or as often during said period as said paper is published, if it be a daily newspaper, and if there be no daily newspaper published in such county, city and county, city or town, then it shall be published in a weekly newspaper once a week for four successive weeks, and in either case the full publication must be completed not less than twenty nor more than thirty days before any further action can be taken thereon. [Amendment approved March 3, 1909. Stats. 1909, p. 125.]

§ 3. The publication must state the character of the franchise or privilege proposed to be granted, the term for which it is granted, and, if it be a street railroad, the route to be traversed; that sealed bids therefor will be received up to a certain hour and day named therein, and that the successful bidder and his assigns must, during the life of said franchise, pay to the county or municipality two per cent (2%) of the gross annual receipts of the person, partnership or corporation to whom the franchise is awarded, arising from its use, operation or possession. No percentage shall be paid for the first (5) years succeeding the date of the franchise, but thereafter such percentage shall be payable annually; and in the event said payment is not made, said franchise shall be forfeited; provided, further, that if the franchise be a renewal of a right already in existence, the payment of said percentage of gross receipts shall begin at once.

§ 4. In case the franchise granted shall be an extension of an existing system of street railroad, then the gross receipts shall be estimated to be one-half of the proportion of the total gross receipts of said system which the mileage of such extension bears to the total mileage of the whole system, and said estimate shall be conclusive as to the amount of the gross receipts of said extension.

§ 5. Said advertisement shall also contain a statement that the said franchise will be struck off, sold and awarded to the person, firm or corporation who shall make the highest cash bid therefor; provided, only, that at the time of the opening of said bids any responsible person, firm or corporation present or represented may bid for said franchise or privilege, a sum not less than ten per cent above the highest sealed bid therefor, and said bid so made may be raised not less than ten per cent by any other responsible bidder, and said bidding may so continue until finally said franchise shall be struck off, sold, and awarded by said governing body to the highest bidder therefor in gold coin of the United States. Each sealed bid shall be accompanied with cash or a certified check, payable to the treasurer of such county or municipality, for the full amount of said bid, and no sealed bid shall be considered unless said cash or check is enclosed therewith and the successful bidder shall deposit, at least ten per cent of the amount of his bid with the clerk of such county or municipality before the franchise shall be struck off to him. And if he shall fail to make such deposit immediately, then and in that case, his bid shall not be received, and shall be considered as void, and the said franchise shall then and there be again offered for sale to the bidder who shall make the highest cash bid therefor, subject to the same conditions as to deposit, as above mentioned. Said procedure shall be had until said franchise is struck off, sold, and awarded to a bidder who shall make the necessary deposit of at least ten per cent of the amount of his bid therefor, as herein provided. Said successful bidder shall deposit with the clerk of such county or municipality, within twenty-four hours of the acceptance of his bid, the remaining ninety per cent of the amount thereof, and in case he or it shall fail to do so, then the said deposit theretofore made, shall be forfeited, and the said award of said franchise shall be void, and the said franchise shall then and there, by said governing body, be again offered for sale to the highest bidder therefor, in the same manner, and under the same restriction as hereinbefore provided, and in case said bidder shall fail to deposit with the clerk of such county or municipality, the remaining ninety per cent of his bid, within twenty-four hours after its acceptance, the award to him of said franchise shall be set aside, and the deposit theretofore made by him shall be forfeited, and no further proceedings for a sale of said franchise shall be had unless the same shall be readvertised and again offered for sale, in the manner hereinbefore provided.

§ 6. Work to erect or lay telegraph or telephone wires, to construct street railroads, to lay gas-pipes for the purpose of carrying gas for heat and power, to erect poles or wires for transmitting electric heat or power, along or upon any public street or highway, or to exercise any privilege whatever, a franchise for which shall have been granted in accordance with the terms of this act, shall be commenced in good faith within not more than four months from the granting of any such franchise, and if not so commenced within said time said franchise so granted shall be declared forfeited, and shall be completed within not more than three years thereafter, and if not so completed within said

time said franchise so granted shall be forfeited; provided, that for good cause shown the governing or legislative body may by resolution extend the time for completion thereof, not exceeding three months.

§ 7. The successful bidder for any franchise or privilege struck off, sold, and awarded under this act shall file a bond running to said county, city and county, or city or town, with, at least, two good and sufficient sureties, to be approved by such governing body, in a penal sum by it to be prescribed, and set forth in the advertisement for bids, conditioned that such bidder shall well and truly observe, fulfill and perform each and every term and condition of such franchise, and that in case of any breach of condition of such bond, the whole amount of the penal sum therein named shall be taken and deemed to be liquidated damages, and shall be recoverable from the principal and sureties upon said bond. Said bond shall be filed with such governing body within five days after such franchise is awarded, and upon the filing and approval of such bond, the said franchise shall, by said governing or legislative body, be granted by ordinance to the person, firm or corporation to whom it has been struck off, sold, or awarded, and in case that said bond shall not be so filed, the award of such franchise shall be set aside, and any money paid therefor shall be forfeited, and said franchise shall, in the discretion of said governing or legislative body, be readvertised, and again offered for sale in the same manner, and under the same restrictions, as hereinbefore provided.

§ 8. It shall be the duty of the attorney general, upon the complaint of any county or municipality, or, in his discretion, upon the complaint of any taxpayer, to sue for the forfeiture of any franchise granted under the terms of this act, for the noncompliance with any condition thereof.

§ 9. No clause or condition of any kind shall be inserted in any franchise or grant offered or sold under the terms of this act, which shall directly or indirectly restrict free and open competition in bidding therefor, and no clause or provision shall be inserted in any franchise offered for sale, which shall in any wise favor one person, firm or corporation, as against another, in bidding for the purchase thereof.

§ 10. Any member of any common council or other governing or legislative body of any county, city and county, city or town of this state, who, by his vote, violates or attempts to violate the provisions of this act, or any of them, shall be guilty of a misdemeanor, and may be punished therefor, as provided by law, and may be deprived of his office by the decree of a court of competent jurisdiction, after trial and conviction.

§ 11. All acts or parts of acts in conflict herewith are hereby repealed; provided, however, that nothing herein contained shall be construed as repealing, or amending the following acts, to wit: "An act relating to the granting by the counties and municipalities of franchise for the construction of paths and roads for the use of bicycles and other

horseless vehicles," approved March twenty-seventh, eighteen hundred and ninety-seven; "An act to authorize cities and towns to grant franchises for the construction and maintenance of railroads beyond the limits of such cities or towns leading to public parks owned thereby," being chapter forty of the laws of eighteen hundred and ninety-seven of the State of California.

This act shall take effect immediately.

ACT 1230.

Providing for the sale of railroad and other franchises in municipalities and relative to granting franchises. [Stats. 1893, p. 288.]

Amended 1897, p. 176. Superseded by 1897, p. 135. See *Horton v. Los Angeles*, 119 Cal. 602.

Citations. Cal. 111/546, 555; 117/700; 119/602, 608; 132/680; 134/622.

ACT 1231.

Providing for the sale of street railroad and other franchises in municipalities, and providing conditions for the granting of such franchises by the legislative or other governing bodies. [Stats. 1897, p. 135.]

Repealed 1901, p. 265.

Unconstitutional: *Pereria v. Wallace*, 129 Cal. 397.

ACT 1232.

To provide for the sale of street railroad and other franchises in municipalities. [Stats. 1901, p. 265.]

Amended 1903, p. 90.

"Repealed and superseded by 1905, pp. 777, 780. See *City of Los Angeles v. Davidson*, 32 Cal. Dec. 323."—Code Commissioners' Note.

Citations. Cal. 142/228; 150/61, 62, 63.

ACT 1233.

Limiting the time for granting franchises for the construction, extension, or operation of street railroads. [Stats. 1893, p. 29.]

The code commissioners say this act is superseded by the act of 1897, p. 265. It appears in full in Civil Code, Appendix, p. 831.

ACT 1234.

Relating to granting by counties and municipalities of franchises for the construction of paths and roads for the use of bicycles and other horseless vehicles. [Stats. 1897, p. 191.]

Codified by § 524, Civil Code.

See 1901, p. 267; 1905, p. 780; Political Code, § 4047.

TITLE 182.

FRAUDULENT CONVEYANCES.

ACT 1239.

Concerning fraudulent conveyances and contracts. [Stats. 1850, p. 87.]

Amended 1856, p. 87; 1867-68, p. 110. Superseded by Civil Code, §§ 1227-1231, 1624, 3439-3442.

TITLE 183.
FREE LIBRARIES.

ACT 1244.

In reference to library associations. [Stats. 1863, p. 624.]
Amended 1869-70, p. 866.
"Repealed by § 288, Civil Code."—Code Commissioner's Note.

ACT 1245.

To establish free public libraries and reading-rooms. [Stats. 1880,
p. 231.]
Repealed 1901, p. 557.
Citations. App. 2/761, 763, 765.

ACT 1246.

Free public libraries and reading-rooms, establishment of. [Stats. 1877-
78, p. 329.]
Repealed 1880, p. 232.

ACT 1247.

An act to provide for the establishment and maintenance of public
libraries within municipalities.
[Approved March 23, 1901. Stats. 1901, p. 557.]
Amended 1905, p. 296; 1909, p. 828.
Citations. App. 2/761, 762, 763, 764, 765.

Establishment.

§ 1. The common council, board of trustees, or other legislative body of any incorporated city or town in the state of California, may, and upon being requested to do so by one-fourth of the electors of such municipal corporation in the manner hereinafter provided, must, by ordinance, establish in and for said municipality a public library; provided, there be none already established therein.

Petitions for.

§ 2. The request referred to in the preceding section may be by a single petition, or by several petitions; provided, that such several petitions be substantially in the same form, and that such single petition has, or such several petitions in the aggregate have, the signatures of the requisite number of electors.

Management.

§ 3. Such public library shall be managed by a board designated as the board of library trustees, consisting of five members, to be appointed by the mayor, president of the board of trustees or other executive head of the municipality, by and with the consent of the legislative body of said municipality. Such trustees shall severally hold office for three years, serving without compensation; provided, that the members of the first board appointed shall so classify themselves by lot that one of their number shall go out of office at the end of the current fiscal

year, two at the end of one year thereafter, and the other two at the end of two years thereafter. Men and women shall be equally eligible to such an appointment, and vacancies shall be filled by appointment for the unexpired term in the same manner.

Trustees, meetings of.

§4. Boards of library trustees shall meet at least once a month at such times and places as they may fix by resolution. Special meetings may be called at any time by three trustees, by written notice served upon each member at least three hours before the time specified for the proposed meeting. A majority of the board shall constitute a quorum for the transaction of business. Such boards shall appoint one of their number president, who shall serve for one year and until his successor is appointed, and in his absence shall select a president pro tem. Such boards shall cause a proper record of their proceedings to be kept. [Amended by Stats. 1909, p. 823, though title did not state this section was amended. Also amended in 1905; Stats. 1905, p. 296.]

Powers of trustees.

§5. Boards of library trustees shall have power:

First—To make and enforce all rules, regulations and by-laws necessary for the administration, government and protection of the libraries under their management, and all property belonging thereto.

Second—To administer any trust declared or created for such libraries, and receive by gift, devise, or bequest and hold in trust or otherwise, property situated in this state or elsewhere, and where not otherwise provided, dispose of the same for the benefit of such libraries.

Third—To prescribe the duties and powers of the librarian, secretary and other officers and employees of any such libraries; to determine the number of and appoint all such officers and employees, and to fix their compensation, which said officers and employees shall hold their offices or positions at the pleasure of said boards.

Fourth—To purchase necessary books, journals, publications and other personal property.

Fifth—To purchase such real property, and erect or rent and equip, such buildings or building, room or rooms, as may be necessary, when in their judgment a suitable building, or portion thereof, has not been provided by the legislative body of the municipality for such libraries.

Sixth—To require the secretary of state and other state officials to furnish such libraries with copies of any and all reports, laws and other publications of the state not otherwise disposed of by law.

Seventh—To borrow books from, lend books to and exchange the same with other libraries, and to allow nonresidents to borrow books upon such conditions as they may prescribe.

Eighth—To do and perform any and all other acts and things necessary or proper to carry out the provisions of this act.

Annual reports.

§6. Boards of library trustees shall, on or before the last day of July in each year, make a report to the legislative body of their municipi-

pality, giving the condition of the library on the thirtieth day of June preceding, together with a statement of their proceedings for the year then ended, and forward a copy thereof to the state library at Sacramento. [Amended April 12, 1909. Stats. 1909, p. 825, though title did not state this section was amended. Also amended in 1905: Stats. 1905, p. 297.]

Annual tax levy.

§ 7. The legislative body of any municipality in which a public library has been established in accordance with this act, shall in making the annual tax levy and as part thereof, if the maintenance of the library has not been otherwise provided for, levy a tax for the purpose of maintaining such library and purchasing property necessary therefor, which tax shall be in addition to other taxes, the levy of which is permitted in the municipality. Provided that after two years from the establishment of new libraries thereunder, where a maintenance corresponding thereto, has not been otherwise provided, in municipalities of the first, second and third classes, such tax levy shall not exceed two mills on the dollar of assessed valuation, and in municipalities of the fourth, fifth and sixth classes such levy shall not exceed three mills on the dollar of assessed valuation. [Amended April 12, 1909. Stats. 1909, p. 825.]

Disposition of revenue.

§ 8. The revenue derived from said tax, together with all money acquired by gift, devise, bequest, or otherwise, for the purposes of the library, shall be apportioned to a fund to be designated the library fund, and be applied to the purposes herein authorized. If such payment into the treasury should be inconsistent with the conditions or terms of any such gift, devise, bequest, the board shall provide for the safety and preservation of the same, and the application thereof to the use of the library, in accordance with the terms and conditions of such gift, devise or bequest. Payments from this fund shall be made upon warrants issued after due audit by, and an order from, the library trustees, which warrants shall be signed by the president and secretary of said board of library trustees. The treasurer of the municipality shall pay such warrants without any further order or warrant from any other authority. [Amended April 12, 1909. Stats. 1909, p. 825.]

Library to be free.

§ 9. Every library established under this act shall be forever free to the inhabitants and nonresident taxpayers of the municipality, subject always to such rules, regulations and by-laws as may be made by boards of library trustees; and provided, that for violations of the same a person may be fined or excluded from the privileges of the library.

Loanng of books.

§ 10. Boards of library trustees and the legislative bodies of neighboring municipalities or boards of supervisors of the counties in which

public libraries are situated, may contract for lending the books of such libraries to residents of such counties or neighboring municipalities, upon a reasonable compensation to be paid by such counties or neighboring municipalities.

Title to property, shall vest in whom.

§11. The title to all property acquired for the purposes of such libraries, when not inconsistent with the terms of its acquisition, or otherwise designated, shall vest in the municipalities in which such libraries are, or are to be, situated, and in the name of the municipal corporations may be sued for and defended by action at law or otherwise.

Act of 1880 repealed.

§12. An act entitled "An act to establish free public libraries and reading rooms," approved April twenty-six, eighteen hundred and eighty, is hereby repealed; provided, that as to existing libraries this act is to be deemed a continuation thereof, and such libraries shall be governed hereby accordingly; provided, however, that this act shall have no application to any library established or governed by the provisions of a city charter, and the provisions of any city charter shall in no manner be affected by this act.

Disestablishment of library.

§13. Any ordinance establishing a library adopted under the provisions of section 1 of this act must be repealed by the body which adopted the same upon being requested to do so by fifty-one per cent of the electors of such municipal corporations, as shown by the great register then in force, and upon the repeal of such ordinance such library shall be disestablished in such municipal corporation. [Amended April 12, 1909. Stats. 1909, p. 826, though title stated that this section was stricken out.]

The amending act also contained the following: "Sec. 2. All acts and parts of acts inconsistent with this act are hereby modified in accordance with this act."

ACT 1248.

An act to provide county library systems.

[Approved April 12, 1909. Stats. 1909, p. 811.]

County library systems.

§1. The boards of supervisors of the several counties shall have power to establish and maintain, within their counties, county library systems in the manner and with the functions prescribed in this act.

Manner of establishment. Ballots. Elections in cities.

§2. The board of supervisors of any county may submit the question of establishing a county library system to a vote of the electors of such county in the following manner:

They shall, not less than fourteen days before the annual election of school trustees, send notices to the board of trustees of each school

district in the county, declaring that a vote on the question of establishing a county library will be taken at the coming election of school trustees. The trustees shall post such notice in three public places within the district. The board of supervisors shall thereupon prepare two sets of ballots, one reading "For a county library" and the other "Against a county library," and send a sufficient number of them to the board of school trustees in each school district in the county. These ballots shall be kept on hand at the place where said election is held, and each elector voting at such election may use one of these ballots to express his wishes regarding the establishing of a county library. Such election for the establishment of a county library shall be conducted substantially in the manner prescribed for the election of school trustees, except that the result shall be certified to the county board of supervisors, instead of the county superintendent of schools.

In cities, where no election for school trustees is held on the day when such elections are held in other school districts of the county, the county board of supervisors may order a special election on the question of establishing a county library, to be held on the same day as in the school districts outside of such city, and be conducted substantially as elections for the issue of county bonds are now conducted.

After the certificates of the election officers have been received by the county board of supervisors, the said board shall canvass and declare the result, and thereafter if a majority of the votes cast are for a county library, must pass an ordinance establishing a county library as herein provided.

Nonparticipation in system.

§ 3. Not less than five days before any election regarding the establishing of a county library, as provided in section 2 of this act, the board of trustees, common council, or other legislative body of any incorporated city or town in the county, or the board of trustees of any library district, may notify the board of supervisors that such city, town, or library district, does not desire to participate in the county library system, and thereafter such city, town or library district shall not participate in such election, and its inhabitants shall not be entitled to the benefits of such county library system when established, and the property within such city, town, or library district shall not be taxed for county library purposes. But such notice may at any time be withdrawn by such city, or library district.

Supervision of county library.

§ 4. The county library shall be under the general supervision of a committee of three selected annually by the county board of supervisors from among its own members. The said committee shall elect a county librarian, who shall hold office for the term of four years, subject to prior removal for cause, after a hearing, by the library committee. The cause of such removal, together with all proceedings therefor, shall be spread upon the minutes of such committee. The said county librarian need not be a resident of the county nor a citizen of the state of Cali-

fornia at the time of his election. Prior to entering upon the duties of his office, such county librarian shall file with the county clerk the usual oath of office and a bond, conditioned upon the faithful performance of his duties, with sufficient sureties approved by a judge of the superior court, in such sum as may be determined by the county board.

Librarian, who eligible. Salaries.

§5. No person shall be eligible for the office of county librarian, unless he has received, prior to his election, from the state librarian, or from the librarian of the University of California, or the Leland Stanford Junior University, a certificate to the effect that in the opinion of such librarian he is well qualified for the office. If at any time there shall be established by law in this state a system of certification of qualified librarians, each county librarian elected thereafter for a first term must hold a proper certificate provided by such system, in place of the certificate above mentioned in this section. The salary of the county librarian shall, in the counties of the first to tenth classes, be two thousand four hundred dollars per annum; in the counties of the eleventh to twenty-ninth classes, two thousand dollars per annum; in counties of the thirtieth to fortieth classes, one thousand five hundred dollars per annum; in counties of the forty-first to fifty-fourth classes, one thousand dollars per annum; and in counties of the fifty-fifth to fifty-eighth classes, seven hundred and fifty dollars per annum. The county librarian shall also be allowed his actual and necessary expenses incurred in traveling on the business of his office.

Powers of library committee.

§6. The library committee appointed by the county board of supervisors, as aforesaid, shall have power to make general rules and regulations regarding the policy of the county library, and to determine the number and kind of employees of such library. But the appointment and dismissal of such employees, and the management of the business of the library, including the determination of what books shall be purchased, shall be entirely within the power of the county librarian.

Duties of librarian. Assistants.

§7. The county librarian shall, subject to the general rules adopted by the library committee, build up and manage, according to accepted principles of library management, a library for the use of the people of the county. He shall co-operate in every expedient manner with the librarians of other public libraries within the county, including the county law library, and render such assistance to all as will tend to increase their efficiency, and may establish delivery stations and branch libraries within the county. For this purpose, he may employ such assistants as may be authorized by the library committee; provided, that where such services are rendered to a library belonging to any municipal corporation not taxed for the county library system, such services shall be paid for at a fair rate of compensation by such library, payable into the county library fund established by this act.

State librarian to have general supervision.

§ 8. The county library systems of the state shall be under the general supervision of the state librarian, who shall from time to time, either personally or by one of his assistants, visit the libraries in each county and inquire into their condition. The actual expenses of such visits shall be defrayed out of the state library fund. The state librarian may annually call a convention of county librarians, to assemble at such time and place as he shall deem most convenient, for the discussion of questions pertaining to the supervision and administration of the public libraries, the laws relating thereto, and such other subjects affecting the welfare and interest of the county libraries as shall properly be brought before it. It is hereby made the duty of all the county librarians to attend and take part in the proceedings of such convention when it is called. The actual expenses of the county librarians attending the convention shall be paid out of the county library fund.

Report of county librarian.

§ 9. The county librarian shall on or before the 15th day of July in each year, report to the county board of supervisors on the condition of his library system for the year ending June 30th preceding. Such reports shall, in addition to other matters deemed expedient by the county librarian, contain such statistical and other information regarding the county library system as may be deemed desirable by the state librarian. For this purpose the state librarian may send to the several county libraries instructions or question blanks, so as to obtain the material for a comparative study of library conditions in the state. At the time of making his annual report, the county librarian shall send a copy thereof to the state librarian.

Libraries to be free.

§ 10. The county libraries established under this act shall be free to the use of the public; provided, that only residents of the county outside of cities, towns, and library districts not taxed for county library purposes shall have the privilege of drawing books therefrom for use outside of the rooms of the library. Persons violating any of the reasonable rules established by the library authorities may be excluded from the use of the library.

Tax levy.

§ 11. The county board of supervisors, after a county library has been established, shall annually levy in addition to all other taxes levied by them, a tax not to exceed one mill on the dollar of assessed valuation for the purpose of purchasing property for, and maintaining the county library. County bonds may be issued, in the manner prescribed in section 4088 of the Political Code, for the erection and equipment of library buildings and the purchase of land therefor. The county board of supervisors is authorized to receive, on behalf of the county, any gift, bequest or devise for the county library. The title to all the

property belonging to the county library shall be vested in the county. All funds of the county library system, whether derived from taxation or otherwise, shall be in the custody of the county treasurer. They shall constitute a separate fund, called the county library fund, and shall not be used for any purposes except those of the county library system. No money shall be paid out of the said county library fund, except on an order signed by the chairman of the library committee, and countersigned by the county librarian or his assistant. The said chairman shall sign no order upon the library fund, until a proper voucher for the claim upon which such order is based is filed and until such claim has been duly audited and allowed by the library committee. The fact that such claim has been audited and allowed shall be indorsed upon the voucher and attested by the signatures of at least two members of the committee.

Public libraries may assume functions of county library.

§ 12. Instead of establishing a separate county library, the county board of supervisors may enter into a contract according to the provision of this section with any city or incorporated town maintaining a free public library; and the board of library trustees, or other authorities in charge of such free public library of any such city or town, is hereby authorized to make such a contract. The said contract may provide that the public library of such city or town shall assume the functions of a county library within the county with which such contract is made, as provided in this act. The county board of supervisors may agree to pay annually into the library fund of such city such sum as may be agreed upon. Either party to such contract may terminate the same by giving six months' notice of intention to do so.

How system may be discontinued.

§ 13. After a county library system has been established, it shall not be discontinued except by the two-thirds vote of the electors of the county voting at a special election called for the sole purpose of determining whether such library shall be discontinued. Such election shall be carried on substantially in the manner now prescribed for the election on the issuing of county bonds.

ACT 1249.

An act to allow unincorporated towns and villages to establish, equip, and maintain public libraries; to provide for the formation, government and operation of library districts; the acquisition of property thereby; the calling and holding of elections in such districts; the assessment, collection, custody and disbursement of taxes therein; and to create boards of library trustees.

[Approved April 12, 1909. Stats. 1909, p. 815.]

Libraries in unincorporated towns.

§ 1. Any unincorporated town or village of this state may establish, equip and maintain a public library for the dissemination of a knowl-

edge of the arts, sciences and general literature, in accordance with the provisions of this act.

Manner of establishment.

§ 2. Upon the application, by petition, of fifty or more taxpayers and residents of said town or village to the board of supervisors in the county in which said town or village is located, praying for the formation of a library district, and setting forth the boundaries of the said proposed district; the said board of supervisors must, within ten days after receiving said petition, by resolution, order that an election be held in the said proposed district for the determination of the question and shall appoint three qualified electors thereof to conduct said election.

Election, how called.

§ 3. Said election shall be called by posting notice thereof in three of the most public places in said proposed library district, and by publication in a daily or weekly paper therein, if there be one, at least once a week for not less than fifteen days. Said notices must specify the time, place, and the purposes of said election, and the hours during which the polls will be kept open; provided, that in districts with a population of ten thousand or over, the polls must be opened at eight o'clock A. M., and kept open until seven o'clock P. M., and in districts where the population is less than ten thousand, the polls must not be opened before one o'clock P. M., and must be kept open not less than six hours.

Conduct of election.

§ 4. Said election shall be conducted in accordance with the general election laws of this state, where applicable, without reference to form of ballot or manner of voting, except that the ballots shall contain the words, "For library district," and the voter shall write or print after said words on his ballot the word "Yes," or the word "No."

Electors, qualifications of.

§ 5. Every qualified elector, resident within the proposed district for the period requisite to enable him to vote at a general election, shall be entitled to vote at the election above provided for.

Return of result.

§ 6. It shall be the duty of the election officers to report the result of said election to the board of supervisors within five days subsequent to the holding thereof.

Trustees, appointment of.

§ 7. If a majority of the votes at said election shall be in favor of a library district, the said board of supervisors must, by resolution, establish said library district, and must appoint three trustees, who must be qualified electors and residents within the limits of the proposed library district, to be known and called a board of library trustees, of the town or village for which they are appointed. Such trustees shall severally hold office for three years from the first day of July next succeeding their election and until their successors are elected and quali-

fled; serving without compensation; provided however, that the members of the first board appointed shall be so classified by the board of supervisors at the time of their appointment, that one of their number shall go out of office on the thirtieth day of June next succeeding his appointment, one at the end of one year thereafter, and the other at the end of two years thereafter. Vacancies shall be filled by the board of supervisors by appointment for the unexpired term.

Proceedings if proposition be defeated.

§ 8. If a majority of the votes cast shall be against a library district, the board of supervisors shall, by order, so declare; no other proceedings shall be taken in relation thereto until the expiration of one year from the date of presentation of the petition.

Facts establishing the validity of district.

§ 9. The fact of the presentation of the petition, and the order establishing the library district and making the appointment of the three library trustees, shall be entered in the minutes of the board of supervisors and shall be conclusive evidence of the due presentation of a proper petition, and that each of the petitioners was, at the time of signature and presentation of the petition, a taxpayer and resident of the proposed district, and of the fact and regularity of all prior proceedings of every kind and nature provided for by this act, and of the existence and validity of the district.

Trustees, meetings of.

§ 10. Boards of library trustees shall meet at least once a month, at such time and place as they may fix by resolution. Special meetings may be called at any time by two trustees, by written notices served upon each member at least twelve hours before the time specified for the meeting. Two members shall constitute a quorum for the transaction of business. At its first meeting held after the first day of July the board shall organize by electing one of its number president, and another one of its number secretary; they shall serve as such for one year or until their successors are elected and qualified. Such boards shall cause a proper record of its proceedings to be kept, and at the first meeting of the board of trustees of any library formed under the provisions of this act, it must immediately cause to be made out and filed with the state librarian at Sacramento a certificate showing that such library has been established, with the date thereof, the names of the trustees, and the officers of the board chosen for the current fiscal year.

Powers and duties of trustees.

§ 11. The board of library trustees so appointed by the said board of supervisors, and their successors, shall be authorized and they are hereby empowered, and it shall be their duty:

First—To make and enforce all rules, regulations and by-laws necessary for the administration, government and protection of the libraries under their management, and all property belonging thereto.

Second—To administer any trust declared or created for such libraries, and receive by gift, devise, or bequest, and hold in trust or otherwise, property situated in this state or elsewhere, and where not otherwise provided, dispose of the same for the benefit of such libraries.

Third—To prescribe the duties and powers of the librarian, secretary, and other officers and employees of any such libraries; to determine the number of and appoint all such officers and employees, and fix their compensation, which said officers and employees shall hold their offices and positions at the pleasure of said boards.

Fourth—To purchase necessary books, journals, publications and other personal property.

Fifth—To purchase such real property, and erect or rent and equip, such building or buildings, room or rooms, as in their judgment may be necessary to properly carry out the provisions of this act.

Sixth—To require the secretary of state and other state officials to furnish such libraries with copies of any and all reports, laws, and other publications of the state not otherwise disposed of by law.

Seventh—To borrow books from, lend books to and exchange the same with other libraries, and to allow nonresidents to borrow books upon such conditions as the board may prescribe.

Eighth—To do and perform any and all other acts and things necessary or proper to carry out the provisions of this act.

Ninth—To file, through their secretary, on or before the last day in the month of July of each year, a report with the state librarian at Sacramento giving the condition of their library and the number of volumes contained therein on the thirtieth day of June preceding.

Tenth—To designate the hours during which the library shall be open for the use of the public; provided however, that all public libraries established under the provisions of this act, shall be open for the use of the public during every day in the year.

Estimates of cost.

§ 12. In any library district formed under the provisions of this act, which is now maintaining a public library, or which shall have petitioned for and has been granted permission to establish, and intends to maintain a public library in accordance with this act, it shall be the duty of the board of library trustees therein, to furnish to the board of supervisors of the county wherein said library district is situated, each and every year, on or before the first day of September, an estimate of the cost of leasing temporary quarters, purchasing a suitable lot, of procuring plans and specifications and erecting a suitable building, of furnishing and equipping the same, and of fencing and ornamenting the grounds, for the accommodation of the public library, and of conducting and maintaining the same for the ensuing fiscal year, or for any or all of said purposes; provided however, that the board of library trustees, may, when in its judgment it is deemed advisable, and upon the petition of fifty or more taxpayers residing within said library district, must call an election and submit to the electors of the said library district whether the bonds of said library district shall be issued and sold for any or all of the purposes of this act.

Special tax levy.

§ 13. When such estimate shall have been submitted to the board of supervisors of any county in which a public library district has been established, the said board of supervisors must, at the time of levying county taxes, levy a special tax upon all of the taxable property within the limits of the said library district, sufficient in amount to maintain the said public library, or to purchase the site, erect and equip the building, improve the grounds or building, or for any or all of the purposes of this act. The taxes so levied shall be computed, entered upon the tax-roll, and collected in the same manner as other taxes are computed, entered and collected.

Disposition of revenue.

§ 14. The revenue derived from said tax, together with all money acquired by gift, devise, bequest, or otherwise, for the purposes of the library, shall be paid into the county treasury to the credit of the library fund of the district wherein said tax was collected, subject only to the order of the library trustees of said district. If such payment into the treasury should be inconsistent with the terms or conditions of any such gift, devise, or bequest, the board of library trustees shall provide for the safety and preservation of the same, and the application thereof to the use of the library, in accordance with the terms and conditions of such gift, devise or bequest.

Library to be free.

§ 15. Every library established under the provisions of this act shall be forever free to the inhabitants and nonresident taxpayers of the library district, subject always to such rules, regulations, and by-laws as may be made by the board of library trustees; also provided, that for violations of the same a person may be fined or excluded from the privileges of the library.

Loan of books.

§ 16. Boards of library trustees and the boards of trustees of neighboring library districts, or the legislative bodies of neighboring municipalities, or boards of supervisors of the counties in which public libraries are situated, may contract to lend the books of such libraries to residents of such counties or neighboring municipalities, or library districts, upon a reasonable compensation to be paid by such counties, neighboring municipalities, or library districts.

Title to library property.

§ 17. The title to all property acquired for the purposes of such libraries, when not inconsistent with the terms of its acquisition, or not otherwise designated, shall vest in the district in which such libraries are, or are to be situated. Every library district must be designated by the name and style of — library district, (using the name of the district), of — county, (using the name of the county in which said district is situated); and in that name the trustees may sue and be sued, and may hold and convey property for the use and benefit of such

district. A number must not be used as a part of the designation of any library district.

Election for trustees.

§ 18. An election for library trustees must be held in each library district, annually, at the public library, if there is one, and if there is none, at the place to be designated by the board of trustees; for the election of one library trustee, who shall hold office for three years dating from the first day of July next succeeding his election, or until his successor shall be elected, or appointed and qualified.

Number of trustees.

§ 19. The number of library trustees for any library district established under the provisions of this act, shall be three.

Notice of election.

§ 20. Not less than ten days before the election required in section eighteen of this act, the trustees must post notices in three public places in the district, one of which places shall be the public library; which notices must specify the time and place of election, and the hours during which the polls will be kept open; if within five days of holding the election the trustees have failed to post the notices required under this section, then any three electors of the district may give notice.

Conduct of election.

§ 21. Boards of trustees must appoint one inspector and two judges to conduct the said election; if none are so appointed, or, if those appointed are not present at the opening of the polls, the electors present may appoint them, and they shall conduct the election. Any member of the board of library trustees is hereby qualified to administer the oath and swear in the election officers.

Polls, opening and closing.

§ 22. In library districts with a population of ten thousand or over, the polls must be open at eight o'clock A. M., and kept open until seven o'clock P. M.; in districts where the population is less than ten thousand the polls must not be opened before one o'clock P. M., and must be kept open not less than six hours.

Electors, qualifications of.

§ 23. Every elector, resident of the library district, who is a qualified elector of the county, and who is registered in the district where the election is held at least thirty days before the election, may vote thereat.

Voting.

§ 24. Voting must be by ballot (without reference to the general election law in regard to nominations, form of ballot, or manner of voting), which shall be handed by the elector voting to the inspector,

who shall then, in his presence, deposit the same in the ballot-box, and the judges shall enter the elector's name on the poll-list.

Challenges.

§ 25. Any person offering to vote may be challenged by any elector of the district, and the judges of election must thereupon administer to the person challenged an oath, in substance as follows: "You do swear that you are a citizen of the United States, that you are twenty-one years of age, that you have resided in this state one year, in this county ninety days, and in this library district thirty days preceding this election, and that your name is on the great register of this county and was on the great register of a precinct of this library district at least thirty days before this election, and that you have not before voted this day." If he takes the oath prescribed in this section, his vote must be received, otherwise his vote must be rejected.

Poll-lists.

§ 26. A poll and tally list must be kept and must be returned to the board of library trustees.

Canvass of votes.

§ 27. The officers of election must publicly canvass the votes immediately after closing the polls, and make, sign, and deliver certificates of election to the person elected, which must, with the oath of office of the person so elected attached, be forwarded to the county clerk and filed in his office.

Bonds, election for.

§ 28. The board of trustees of any library district may, when in their judgment it is deemed advisable, and must, upon a petition of fifty or more taxpayers and residents of said library district, call an election and submit to the electors of the district, whether the bonds of such district shall be issued and sold for the purpose of raising money for the purchase of suitable lots, of procuring plans and specifications and of erecting a suitable building, of furnishing and equipping the same, and of fencing and ornamenting the grounds, for the accommodation of the public library, or for any or all of the said purposes, or for any or all of the purposes of this act; for liquidating any indebtedness incurred for said purposes, and for refunding any outstanding valid indebtedness, evidenced by bonds or warrants of the district.

Notice of bond election.

§ 29. Such election must be called by posting notices, signed by the board, in three of the most public places in the district, for not less than twenty days before the election; and if there is a newspaper published in the district, or if not, a newspaper published in the county, by publishing such notice therein not less than once a week for three successive weeks.

What notice must contain.

§ 30. Such notice must contain:

1. Time and place of holding such election;

2. The names of inspectors and judges to conduct the same;
3. The hours during the day in which the polls will be open;
4. The amount and denomination of the bonds, the rate of interest and the number of years, not exceeding forty, the whole or any part of said bonds are to run.

Conduct of election.

§ 31. The election shall be conducted in accordance with the provisions of sections twenty-one, twenty-two, twenty-three, twenty-five, twenty-six, twenty-seven, of this act, in so far as they are applicable to the election for bonds.

Voting.

§ 32. Voting must be by ballot (without reference to the general election law in regard to form of ballot, or manner of voting), except that the words to appear on the ballot shall be, "Bonds—Yes," and "Bonds—No," and except further, that persons voting at such bond election shall put a cross (X) upon their ballots, with pencil or ink, after the words "Bonds—Yes," or "Bonds—No," (as the case may be) to indicate whether they have voted for or against the issuance of the bonds; which said ballot shall be handed by the elector voting to the inspector, who shall then, in his presence, deposit the same in the ballot box, and the judges shall enter the elector's name on the poll-list.

Canvass of returns.

§ 33. On the seventh day after said election, at eight o'clock P. M., the returns having been made to the board of trustees, the board must meet and canvass said returns, and if it appears that a majority of the votes cast at said election was in favor of issuing such bonds, then the board shall cause an entry of such fact to be made upon its minutes and shall certify to the board of supervisors of the county, all the proceedings had in the premises, and thereupon said board of supervisors shall be and they are hereby authorized and directed to issue the bonds of said district, to the number and amount provided in such proceedings, payable out of the building fund of such district, naming the same, and that the money shall be raised by taxation upon the taxable property in said district, for the redemption of said bonds and the payment of the interest thereon; provided, that the total amount of bonds so issued shall not exceed five per cent of the taxable property of said district, as shown by the last equalized assessment-book of the county.

Form of bonds.

§ 34. The board of supervisors by an order entered upon its minutes shall prescribe the form of said bonds and of the interest coupons attached thereto, and must fix the time when the whole or any part of the principal of said bonds shall be payable, which shall not be more than forty years from the date thereof.

Interest.

§ 35. Said bonds must not bear a greater amount of interest than six per cent, said interest to be payable annually or semi-annually; and

said bonds must be sold in the manner prescribed by the board of supervisors, but for not less than par, and the proceeds of the sale thereof must be deposited in the county treasury to the credit of the building fund of said library district, and be drawn out for the purposes aforesaid as other library moneys are drawn out.

Tax levy, for interest and redemption.

§ 36. The board of supervisors, at the time of making the levy of taxes for county purposes, must levy a tax for that year upon the taxable property in such district, at the equalized assessed value thereof for that year, for the interest and redemption of said bonds, and such tax must not be less than sufficient to pay the interest of said bonds for that year, and such portion of the principal as is to become due during such year, and in any event must be high enough to raise, annually, for the first half of the term said bonds have to run, a sufficient sum to pay the interest thereon, and during the balance of the term, high enough to pay such annual interest and to pay, annually, a proportion of the principal of said bonds equal to a sum produced by taking the whole amount of said bonds outstanding and dividing it by the number of years said bonds then have to run, and all moneys so levied, when collected, shall be paid into the county treasury to the credit of the said library district, and be used for the payment of principal and interest on said bonds, and for no other purpose. The principal and interest on said bonds shall be paid by the county treasurer, upon the warrant of the county auditor, out of the fund provided therefor; and it shall be the duty of the county auditor to cancel and file with the county treasurer the bonds and coupons as rapidly as they are paid.

Unsold bonds, disposition of.

§ 37. Whenever any bonds issued under the provisions of this act shall remain unsold for the period of six months after having been offered for sale in the manner prescribed by the board of supervisors, the board of trustees of the library district for or on account of which said bonds were issued, or of any library district composed wholly or partly of territory which, at the time of holding the election authorizing the issuance of such bonds, was embraced within the district for or on account of which such bonds were issued, may petition the board of supervisors to cause such unsold bonds to be withdrawn from market and canceled. Upon receiving such petition, signed by a majority of the members of said board of trustees, the supervisors shall fix a time for hearing the same, which shall be not more than thirty days thereafter, and shall cause a notice, stating the time and place of hearing, and the object of the petition in general terms, to be published for ten days prior to the day of hearing, in some newspaper published in said library district, if there is one, and if there is no newspaper published in said library district, then in a newspaper published at the county seat of the county in which said library district or part thereof is situated. At the time and place designated in the notice for hearing said petition, or at any subsequent time to which said hearing may be post-

poned, the supervisors shall hear any reasons that may be submitted for or against the granting of the petition, and if they shall deem it for the best interests of the library district named in the petition that such unsold bonds be canceled, they shall make and enter an order in the minutes of their proceedings that said unsold bonds be canceled, and thereupon said bonds, and the vote by which they were authorized to be issued, shall cease to be of any validity whatever.

Dissolution of district.

§ 38. The district may at any time be dissolved upon the vote of two-thirds of the qualified electors thereof, upon an election called by the library trustees of such district, upon the question of dissolution. Such election shall be called and conducted in the same manner as other elections of the district. Upon such dissolution, the property of the district shall vest in any incorporated town or city that may at such time be in occupation of a major portion of the territory of such library district and including within its town or city limits the property and buildings wherein the library is situated; and if there be no such incorporated town or city, then the property shall be vested in the board of supervisors of the county until the formation of such a town or city; provided, however, that if, at the time of such election to dissolve such district, there be any outstanding bonded indebtedness of such district, the vote to dissolve such district shall dissolve the same for all purposes excepting only the levy and collection of taxes for the payment of such indebtedness; and from the time such district is thus dissolved until such bonded indebtedness, with the interest thereon, is fully paid, satisfied and discharged, the legislative authority of such incorporated town or city, or the board of supervisors, if there be no such incorporated town or city, is hereby constituted ex officio the library board of such district. And it is hereby made obligatory upon such board to levy such taxes and perform such other acts as may be necessary in order to raise money for the payment of such indebtedness, and the interest thereon, as herein provided.

§ 39. All acts or parts of acts conflicting with the provisions of this act are hereby repealed.

§ 40. This act shall take effect immediately.

ACT 1250.

An act to authorize the deposit of certain newspaper files kept in recorders' offices, in free public libraries.

[Approved March 19, 1909. Stats. 1909, p. 436.]

§ 1. The county boards of supervisors of the several counties may authorize the recorders of their several counties to deposit with any free public library maintained at the county seat such newspaper files, or portions thereof, as may be in the custody of such recorders by virtue of an act approved April 8, 1862, and entitled "An act for the purchase and preservation of public newspapers, printed and published in the several counties of this state," or by virtue of any other act.

§2. Before making such deposit, the said board of supervisors shall obtain from the board of trustees or other authorities in charge of such free public library an agreement that they will properly preserve and care for such newspaper files, and make them accessible to the public.

TITLE 184.
FRESNO CITY.

ACT 1251.

Fresno, town of, and Merced, city, protection against fire. [Stats. 1877-78, p. 214.]

Superseded as to that city by the charter of Fresno, 1901, p. 838.

ACT 1252.

Charter of Fresno. [Approved January 28, 1901. Stats. 1901, p. 832. Amended 1905, p. 1026.]

Cal. 151/467.

ACT 1253.

Preventing certain animals and fowls from running at large within the limits of Fresno City. [Stats. 1875-76, p. 57.]

Repealed 1897, p. 198.

TITLE 185.
FRESNO COUNTY.

ACT 1258.

County seat, locating. [Stats. 1873-74, p. 913.]

ACT 1259.

County auditor and county recorder, separation of offices for, and regulation of official salaries in. [Stats. 1875-76, p. 151.]

Amended 1875-76, p. 368; 1877-78, p. 104. Repealed by County Government Act, 1897, p. 535, § 166.

ACT 1260.

Funds for improvement of courthouse and county hospital grounds [Stats. 1877-78, p. 174.]

ACT 1261.

Authorizing transfer of funds. [Stats. 1875-76, p. 249.]

Superseded by subd. 18, § 25, County Government Act, 1897, p. 463.

ACT 1262.

To reduce the number of judges of the superior court of from three to two. [Stats. 1895, p. 156.]

ACT 1263.

To increase the number of superior judges of. [Stats. 1887, p. 57.]

ACT 1264.

For the appointment of an additional judge for. [Stats. 1893, p. 125.]

ACT 1265.

To provide for the maintenance and construction of roads in. [Stats. 1877-78, p. 859.]

Repealed 1883, p. 5, c. X, § 2.

ACT 1266.

Issuance of bonds for the construction of certain roads and bridges. [Stats. 1877-78, p. 395.]

ACT 1267.

To repeal all special laws in and to apply the provisions of the Political Code relating to roads and highways. [Stats. 1873-74, p. 342.]

ACT 1268.

Promoting sanitary conditions in towns and villages. [Stats. 1877-78, p. 383.]

See subd. 20, § 25, County Government Act, 1897, p. 464.

ACT 1269.

Tax collectors of, bonds of. [Stats. 1875-76, p. 16.]

Repealed by County Government Act, 1897, p. 475, § 66.

ACT 1270.

Treasurer of, salary of. [Stats. 1873-74, p. 236.]

Amended 1877-78, p. 255. Repealed by County Government Act, 1897, p. 452.

ACT 1271.

Creating board of water commissioners for. [Stats. 1865-66, p. 777.]

Amended 1875-76, p. 547.

ACT 1272.

Water ditches and water privileges in. [Stats. 1875-76, p. 547.]

TITLE 186.**FUNDS.****ACT 1277.**

Authorizing transfer to the general fund of money in other funds of the state treasury. [Stats. 1871-72, p. 475.]

This act provided that when the general fund was exhausted, moneys in other funds not needed in such funds could be transferred to it.

ACT 1278.

Authorizing the governor to order the transfer to the general fund of any money that may be in other funds of the state treasury, and the return thereof to such funds. [Stats. 1899, p. 156.]

Superseded by Political Code, § 444.

ACT 1279.

Requiring the payment into the state treasury of all moneys belonging to the state, received by state institutions, commissions, and officers, and directing the disposition of the proceeds. [Stats. 1899, p. 110.]

Amended 1905, p. 882; 1906, p. 42; see Act 1284.

ACT 1280.

Providing for the payment of moneys in the state treasury to the credit of the swamp land fund, to the treasurers of the counties wherein the said swamp land districts are situated, and to provide for the control of the same by the auditor and treasurer of said counties, and prescribing the duties of the controller and treasurer in relation thereto. [Stats. 1891, p. 243.]

Citations. Cal. 119/514.

ACT 1281.

Authorizing controller and treasurer to transfer certain moneys in certain other funds to the general fund. [Stats. 1893, p. 6.]

ACT 1282.

Authorizing the treasurer and controller to transfer moneys from the state drainage construction fund to the general fund. [Stats. 1891, p. 237.]

See Act 984, ante.

ACT 1283.

To authorize the controller and treasurer to transfer moneys from the construction fund of Drainage District No. 1 to the general fund. [Stats. 1891, p. 279.]

ACT 1284.

An act authorizing the investment and reinvestment and disposition of any moneys in any sinking fund of any county, city and county, or incorporated city or town.

[Approved March 3, 1909. Stats. 1909, p. 139.]

§1. Any county, city and county or incorporated city or town, which now has or hereafter shall have any moneys in any sinking fund established for the purpose of providing for the payment of the principal or interest of any bonded or other indebtedness, or for any other purpose, is hereby authorized to invest any such moneys temporarily in any bonds already issued or hereafter issued of such county, city and county or incorporated city or town, respectively, or in bonds already issued or hereafter issued of any school district situated, in whole or in part, within the limits of such county, city and county or incorporated city or town, or in bonds already issued or hereafter issued of the state of California or of the United States, and such investment may be made

by direct purchase of any issue of bonds, or part thereof, at the original sale of such bonds, or by the purchase of such bonds after they have been thus issued. Any bonds thus purchased and held in any such sinking fund may, from time to time, be sold and the proceeds temporarily reinvested in bonds as above provided. Sales of any bonds thus purchased and held in a sinking fund shall, from time to time, be made in season so that the proceeds may be applied to the purposes for which the sinking fund was created.

§ 2. The functions and duties in this act authorized shall be performed by the legislative or governing body of the county, city and county or incorporated city or town, or under its authority.

§ 3. This act shall take effect immediately.

ACT 1285.

An act to provide for and regulate the deposit of county and municipal moneys in banks and banking corporations, limiting the amount of public moneys that may be deposited therein, and providing a penalty for the illegal deposit and use thereof.

[Approved March 23, 1907. Stats. 1907, p. 974.]

Deposit of public moneys, other than state, in banks. Security required.

§ 1. All moneys belonging to any county or municipality within the state, may be deposited by any officer of such county or municipality having the legal custody of such county or municipal funds in any licensed national bank, or banks, within this state, or in any bank, banks or corporations authorized and licensed to do a banking business, and organized under the laws of this state, provided that such bank or banks in which such moneys are deposited shall furnish as security for such deposits, bonds of the United States, or of this state, or of any county, municipality or school district within this state, approved by the officer making the deposit and the district attorney for the county or city attorney for the municipality to which the deposit belongs. The market value of the bonds furnished as security, shall be at least ten per cent in excess of the amount of the deposit secured thereby; but the amount of the deposit shall in no case exceed the face value of the bonds furnished as security therefor; and provided that such bank, or banks, shall pay a reasonable rate of interest, not less than two per cent per annum on the daily balances therein deposited.

Rate of interest to be fixed, when.

§ 2. The rate of interest shall be fixed annually as herein provided in the month of January of each year on all deposits to be made for such year; provided, that the rate of interest for the year ending December 31, 1907, may be fixed as herein provided within ninety days after this act goes into effect. The rate of interest shall be fixed in the case of counties, by the treasurer, auditor, and chairman of the board of supervisors, and in the case of municipalities by the treasurer, auditor, (or clerk in municipalities having no auditor) and chairman of

the council or other governing body of such municipality. Said rate of interest shall be a reasonable rate and not less than two per cent per annum on the daily balances deposited; and the rate of interest so established for each year as herein provided, shall be the uniform rate of interest required from all banks receiving deposits from the county or municipality, for that year.

Interest on all moneys deposited as herein provided for shall belong to the county or municipality represented by the officer making such deposit and shall be paid quarterly into the general fund of such county or municipality except where the law otherwise directs.

Receipt for deposit.

§ 3. It shall be the duty of the officer making the deposit, to receive from the bank in which the deposit is made, a receipt or receipts in duplicate showing the date and amount of deposit and rate of interest to be paid thereon, one copy of which said officer shall keep on file in his office and he shall file one copy with the auditor of the county or auditor of the municipality (or clerk in municipalities having no auditor) as the case may be.

Record of deposits.

§ 4. Every treasurer shall keep a record in his office which shall be open to public inspection, showing at all times the amount of money on deposit and all banks in which the same is deposited, and dates of deposit. Also a record of all banks making application for the deposit of the public funds.

Amount that may be deposited.

§ 5. The total amount of public moneys on deposit in any bank, shall not at any one time exceed fifty per cent of the paid up capital stock of such depository bank or banks. No officer shall have on deposit at any one time more than ten per cent of the public moneys under his control and available for deposit in any bank while there are other qualified banks requesting such deposits; provided, that no treasurer of a county or municipality, shall be required to deposit public moneys in any bank outside of the county owning the money or in which the municipality is situated.

Receipts to be counted as cash.

§ 6. The receipt issued by any bank for deposits made therein, together with the bonds held as security therefor, shall be held by the treasurer making the deposit and be recognized and counted as cash to the amount recited in the receipt by the officers required by law to count the same.

Deposits subject to call.

§ 7. Deposits, with interest thereon, shall be subject to withdrawal on demand of the treasurer making the same, or his successors in office, and any bank receiving the deposit of public moneys, may at any time return the same to the public officer making such deposit, together

with interest to date of return, and it shall be the duty of the public officer upon receiving the return of such deposit, to immediately return to such bank all bonds held as security for the deposit returned. When any officer withdraws his deposit he shall return, on demand of the bank, such bonds as were held as security for the deposit or portion thereof withdrawn.

On failure of bank to repay, security to be sold.

§ 8. Should any bank fail to pay any public moneys held on deposit as herein provided, the officer making such deposit may, after ten days' written notice to such bank, proceed to sell at public or private sale, such of the bonds held by him as security as he may see fit; provided, however, that he shall sell no bonds for less than their face value except at public sale after ten days' printed notice in some newspaper of general circulation published in the county where the sale is to take place. The proceeds of such sale, after paying all expenses, shall be credited to the account of the bank which deposited the bonds as collateral. Any bank failing to make payment, may, at any time before the sale of the bonds is completed, stop such sale by repaying all the moneys deposited with it, together with any expense that may have been incurred by the officer making such deposit, as the result of such failure. Should the proceeds of any such sale fail to fully repay any deposit, the balance remaining unpaid may be collected in an action of law in the name of the officer making the deposit.

Public officials not responsible for loss.

§ 9. Public officials shall not be responsible for any loss of public moneys resulting from the deposit thereof when made in accordance with the provisions of this act. It shall be the duty of the officer making the deposit to safely keep all evidence of indebtedness issued by banks for deposits made therein, and bonds deposited for security and such public officer shall be responsible for such evidence of indebtedness, and for bonds held as security therefor, together with the interest thereon and the proceeds of any sale of such bonds; and the city, county or municipality for which said officer acts, shall be responsible to such bank for the safe return of the securities furnished by it to such officer.

Transportation of moneys.

§ 10. The expenses of transportation of moneys to or from the state, county or municipal treasuries to such depositaries shall be borne by such depositaries.

Violation of act a felony.

§ 11. The making of profit out of county, city, town or other public moneys, or using the same for any purpose not authorized by law by any officer having possession or control thereof, shall be a felony. Any violation of the provisions of this act by a bank or a banking corporation, shall be punishable by a fine not exceeding five hundred dollars for each offense and the officers of such bank or banking corporation and officer receiving such deposit shall be guilty of a felony.

Present laws not abrogated.

§ 12. Nothing in this act contained shall prevent any county or municipality within this state from buying bonds or otherwise investing its money in any manner now provided by law and nothing herein contained as to the disposition of interest on public moneys deposited shall apply to any money received or held by any county or municipality wherein any law provides for the payment of interest or profit thereon, into any particular fund.

§ 13. All acts or parts of acts in conflict with this act are hereby repealed.

§ 14. This act shall take effect immediately.

Citations. Cal. 152/6.

ACT 1286.

An act to provide for the loan from the school land fund to the state of California of the sum of two hundred fifty thousand dollars, providing for the transfer of said amount from the school land fund to the general fund and for the repayment of said amount with interest thereon, and authorizing the controller to transfer moneys from the school land fund to the general fund and from the general fund to the school land fund and from the general fund to the state school fund to carry out the purposes of this act. [Approved March 20, 1907. Stats. 1907, p. 752.]

ACT 1287.

An act to convert, transfer and return to the general fund of the state treasury, all unexpended moneys heretofore appropriated for the care, management or improvement, or for any other purpose, with reference to the "Yosemite Valley and Mariposa Big Tree Grove" or any money which may be or hereafter come into the Yosemite Valley and Mariposa Big Tree Grove. [Approved March 15, 1907. Stats. 1907, p. 268.]

ACT 1288.

An act authorizing the transfer of moneys from the salary fund of the state Normal School at San Francisco to the printing fund of said school. [Approved March 19, 1907. Stats. 1907, p. 687.]

ACT 1289.

An act authorizing the payment into the general fund of the state treasury of moneys held for the redemption of certain coupons of the civil bonds of 1857 and providing for the redemption of said coupons. [Approved April 12, 1909. Stats. 1909, p. 842.]

ACT 1290.

An act authorizing the payment into the general fund of the state treasury of moneys held for the redemption of certain coupons of the Central Pacific Railroad bonds of 1864 and providing for the redemption of said coupons. [Approved April 12, 1909. Stats. 1909, p. 843.]

TITLE 187.

GALLINAS SLOUGH.

ACT 1291.

Gallinas Slough or Creek, in Marin County, declared navigable. [Stats. 1875-76, p. 485.]

"Repealed by Pol. C., § 2349 as amended in 1891. Renewed by Pol. C., § 2349 as amended in 1907."—Code Commissioners' Note.

TITLE 188.

GAMING.

ACT 1293.

To suppress gaming. [Stats. 1855, p. 124.]
Superseded by Penal Code, §§ 330-337.

ACT 1294.

To prohibit gaming. [Stats. 1857, p. 267.]
Superseded by Penal Code, §§ 330-337.

ACT 1295.

To prohibit gaming. [Stats. 1860, p. 69.]
Amended 1863, p. 723. Superseded by Penal Code, § 330 et seq.

TITLE 189.

GAME LAWS.

ACT 1296.

An act to regulate and license the hunting of game birds and animals and to provide revenue therefrom, for game preservation and restoration and to make appropriation for the purpose of carrying out the objects of this act. [Approved March 13, 1907. Stats. 1907, p. 247. Repealed 1909, p. 663.]
See Act 1297.

ACT 1297.

An act to regulate and license the hunting of wild birds and animals, and to provide revenue therefrom, for game and fish preservation and restoration.

[Approved March 22, 1909. Stats. 1909, p. 663.]

Licenses to hunt game.

§ 1. Every person in the state of California, who hunts, pursues or kills any of the wild birds or animals, excepting predatory birds or animals, without first procuring a license therefor, as provided in this act, is guilty of a misdemeanor.

By whom issued.

§ 2. Licenses granting the privilege to hunt, pursue or kill wild birds or animals, shall be issued and delivered upon application, by the county

clerk of any of the counties of this state, or by the state board of fish commissioners, who shall prepare suitable licenses of convenient form and size, and have printed or stamped thereon the words: "Hunting License No. —, State of California, expires June 30, 19—," with the registration number, and appropriate year printed or stamped thereon, which said license shall be prepared and furnished to the county clerk, and for their own disposition, by the state board of fish commissioners, which board shall take receipt therefor by number and quantity, from the several county clerks, and the county clerk shall be responsible therefor and shall account for the same to the controller of the state every three months, beginning with July 1st of each year. For each license sold, registered and accounted for by any person excepting by a fish commissioner, he shall be allowed as compensation out of the game preservation fund, ten per cent of the amount accounted for.

To whom issued, and fee for.

§ 3. The licenses herein provided for shall be issued as follows:

First—To any citizen of the United States who is a bona fide resident of the state of California, upon the payment of one dollar.

Second—To any citizen of the United States, not a bona fide resident of the state of California, upon the payment of ten dollars.

Third—To any person not a citizen of the United States, upon the payment of twenty-five dollars.

Application for license.

§ 4. Every person applying for and procuring a license as herein provided shall furnish to the county clerk or state board of fish commissioners, his name and resident address, which information shall be by the clerk or board entered in a book kept for that purpose, and provided by the state board of fish commissioners, together with a statement of the date of issuance and the number of the license issued to such person. Such applicant shall also furnish to the county clerk or fish commissioners a written description of himself, by age, height, nationality and color of the eyes and hair.

Term of license.

§ 5. All licenses issued as herein provided shall be valid, and shall authorize the person to whom issued, to hunt, pursue and kill wild birds and animals, excepting predatory birds and animals, on and from the first day of July of the year in which such license is issued until the date of expiration written or stamped thereon, but no license shall continue in force for a period longer than one year.

Disposition of moneys.

§ 6. All moneys collected from licenses as provided herein, and all fines collected for the violation of the provisions hereof shall be paid into the state treasury and credited to the game preservation fund.

License not transferable.

§ 7. Not more than one license shall be issued to any one person for the same fiscal year, except upon an affidavit by the applicant that the

one issued has been lost or destroyed, and no license issued as herein provided shall be transferable or used by any other person than the one to whom it was issued.

Must be exhibited on demand.

§ 8. Every person having a license as provided herein, who while hunting refuses to exhibit such license upon demand of any officer authorized to enforce the game and fish laws of this state, or any peace officer of the state, shall be guilty of a misdemeanor; and every person lawfully having such license, who transfers or disposes of the same to another person to be used as a hunting license, shall forfeit the same.

Violation of act.

§ 9. Every person violating any of the provisions of this act, shall, upon conviction thereof be punished by a fine of not less than ten, nor more than one hundred dollars, or by imprisonment in the county jail for a term of not less than ten, nor more than one hundred days, or by both such fine and imprisonment.

Act of 1907 repealed.

§ 10. An act entitled "An act to regulate and license the hunting of game birds and animals and to provide revenue therefrom for game preservation and restoration and to make appropriation for the purpose of carrying out the objects of this act," approved March 13, 1907, is hereby repealed.

§ 11. This act shall take effect and be in force on and after July 1st, 1909.

ACT 1298.

An act to regulate the vocation of fishing, and to provide therefrom revenue for the propagation, restoration and preservation of fish in the waters of the state of California.

[Approved March 13, 1909. Stats. 1909, p. 302.]

License required.

§ 1. Every person engaged or employed in the vocation of fishing for profit in the public waters of this state must first obtain a license before engaging in such vocation.

State controller to issue. Duty of fish commissioners.

§ 2. The controller of state shall prepare suitable licenses, of the classes designated by the fish and game commissioners, which shall purport to license the holder of such license to fish in any of the public waters of this state with crawfish traps, lines, nets, seines, or by boat, for the term of one year from the first day of April of one year to the first day of April of the year following. The licenses shall be numbered consecutively, beginning with number one, and contain blanks for the insertion of the name of the holder, his resident address, and his description, by age, height, nationality, and color of eyes and hair,

which description shall be furnished by the applicant to the board of fish and game commissioners. The controller shall sign all licenses and deliver the same to the fish and game commissioners, on demand, who shall be charged for the same by the controller. Each license, before delivery to the applicant for a license, must be countersigned by the president of the board of fish and game commissioners, and the president of the board of fish and game commissioners shall execute a bond to the people of the state of California, in the sum of two thousand (\$2,000) dollars, for the faithful performance of the duties imposed upon him by this act.

To whom licenses shall be issued.

§ 3. Licenses shall be issued and delivered upon application to the state board of fish and game commissioners or their deputies. The licenses herein provided for shall be issued as follows: To any citizen of the United States upon the payment of two and one-half (2½) dollars; to any person not a citizen of the United States upon the payment of ten (10) dollars. Not more than one license shall be issued to any one person for the same year, except upon an affidavit by the applicant that the one issued has been lost or destroyed, and no license issued as herein provided shall be transferable or used by any other person than the one to whom it was issued. Every person having a license as provided herein, who refuses to exhibit such license upon demand of any officer authorized to enforce the fish and game laws of this state, or any peace officer of this state; or who transfers or disposes of the same to another person to be used as a fisherman's license; or who fishes with unlawful lines, nets, seines, or by modes or methods in violation of any law for the preservation of fish and game, shall forfeit this license.

Fees, to whom payable.

§ 4. The said license fees must be paid to the fish and game commissioners, or to some one designated by them for that purpose; and each of the commissioners, and such person or persons designated by them, is and are hereby empowered to arrest any person fishing, or using lines, or a boat, or net for fishing, without a license, contrary to the provisions of section one of this act.

Disposition of fees.

§ 5. The money collected from such licenses shall be paid by the commissioners into the state treasury to the credit of the appropriation for the "Support and maintenance of hatcheries," and shall be applicable to the payment of the expenses of propagating, protecting, restoring and introducing commercial fishes into the public waters of this state, and all other necessary expenses pertaining thereto.

Penalty for violation of act.

§ 6. The violation of any provision of this act is hereby declared a misdemeanor, and every person violating any of its provisions, shall, upon conviction thereof, be fined in a sum not less than ten nor more

than one hundred dollars, or by imprisonment in the county jail for a term of not less than ten nor more than one hundred days, or by both such fine and imprisonment; and all fines collected for any violation of any of the provisions of this section shall be paid into the state treasury to the credit of the "Fish and game preservation fund."

§ 7. All acts and parts of acts, so far as they conflict with this act, are hereby repealed.

§ 8. This act shall take effect immediately.

ACT 1299.

An act to provide for the acquisition, equipment and use of a railway car for the purpose of distributing live fish and stocking the waters of this state with fish, and making an appropriation therefor. [Approved March 21, 1907. Stats. 1907, p. 777.]

ACT 1299a.

An act to authorize the board of fish commissioners of the state to construct a fish repository on the Stanislaus River in Tuolumne County, and making an appropriation therefor. [Approved March 13, 1907. Stats. 1907, p. 249.]

ACT 1300.

To create the office of fish and game warden, and to prescribe the powers, duties, and salary of such officer. [Stats. 1895, p. 169.]

Amended 1905, p. 819.

Codified: See Political Code, §§ 4149b-4149d.

ACT 1301.

Authorizing the fish commissioners to purchase the land on which the state fish hatcheries at Sisson are situated. [Stats. 1891, p. 258.]

ACT 1302.

To provide for purchasing land for the state fish hatchery at Sisson, in Siskiyou County, and for making certain improvements and repairs at said hatchery, and making an appropriation therefor. [Approved March 25, 1903. Stats. 1903, p. 434.]

ACT 1303.

Authorizing commissioners to remove obstructions in American River. [Approved March 5, 1889. Stats. 1889, p. 66.]

ACT 1304.

To provide for removing obstructions in Pitt River, above the mouth of Hat Creek, so as to enable salmon to reach the spawning-grounds on the upper waters of said river and its tributaries, and making an appropriation therefor. [Approved March 25, 1901. Stats. 1901, p. 808.]

ACT 1305.

Authorizing the board of fish commissioners to construct a steam launch. [Stats. 1885, p. 124.]

ACT 1306.

To authorize the board of fish commissioners to purchase or construct a gasoline launch, to aid in carrying out the purposes of said board, and appropriating money therefor. [Stats. 1893, p. 346.]

ACT 1307.

Authorizing fish commissioners to dispose of the steam launch Governor Stoneman and to replace it by two smaller boats to be used as patrol boats. [Stats. 1889, p. 350.]

ACT 1308.

To authorize state board of fish commissioners to import game birds into the state for propagation. [Stats. 1889, p. 304.]

ACT 1309.

Authorizing fish commissioners to build and maintain a salmon hatchery. [Stats. 1885, p. 31.]

ACT 1310.

Authorizing the board of fish commissioners to dispose of the hatchery located on Battle Creek in Tehama County, and to expend the proceeds of the same. [Stats. 1897, p. 89.]

ACT 1311.

Nevada County, protecting game in. [Stats. 1873-74, p. 80.]

"Probably modified and repealed by Penal Code, §§ 626e, 626f, 626h, and 626i."—Code Commissioner's Note.

ACT 1312.

Yolo County, restricting the hunting of game in. [Stats. 1871-72, p. 411.]

"Probably superseded by the general laws on the subject. See Penal Code, §§ 635, 636, 636a."—Code Commissioner's Note.

ACT 1313.

To prevent the destruction of deer on Mt. Diablo, in Contra Costa County. [Stats. 1877-78, p. 599.]

This act appears in full in the Appendix to the Penal Code, p. 803.

ACT 1314.

Mocking-birds, act to prevent destruction of. [Stats. 1871-72, p. 102.]

This act appears in full in the Appendix to the Penal Code, p. 803.

ACT 1315.

Seagulls at Santa Monica, protection of. [Stats. 1875-76, p. 287.]

This act prohibited the killing of seagulls within five miles of the town.

Repealed by § 599 of Penal Code, 1905. See note to § 599, Penal Code.

ACT 1316.

To prevent capture and destruction of blue cranes. [Stats. 1889, p. 205.]
Codified by § 599 of Penal Code, 1905. See note to § 599, Penal Code.

ACT 1317.

To prevent destruction of fish and game in the waters of Lake Merritt,
Alameda County. [Stats. 1869-70, p. 325.]
Continued in force by Political Code, § 19, and Penal Code, § 23.

ACT 1318.

Napa County, for the protection of fish and game in. [Stats. 1871-72,
p. 550.]
"Probably repealed by the general laws upon the subject. See Penal Code,
§§ 635, 636, 636a."—Code Commissioners' Note.

ACT 1319.

To regulate the vocation of fishing, and to provide therefrom revenue
for the protection and preservation of fish. [Stats. 1887, p. 233.]

ACT 1320.

To prohibit aliens from fishing in the waters of this state. Stats. 1830,
p. 123.]
Unconstitutional: In re Ah Chong, 5 Pac. Coast L. J. 451.
In full in Penal Code Appendix, p. 797.

ACT 1321.

For the protection of certain kinds of fish. [Stats. 1880, p. 106.]
Expired in 1882.
This act prohibited the catching of catfish, except by hook and line.

ACT 1322.

Construction, maintenance, and regulation of fishways in streams frequented by salmon, shad, etc. [Approved April 16, 1880. Stats. 1880, p. 121.]
Superseded by Penal Code, § 637.

ACT 1323.

Alameda County, prohibiting destruction of fish in. [Stats. 1877-78,
p. 598.]
This act is in the Penal Code Appendix, p. 800.

ACT 1324.

To prevent destruction of fish in Bolinas Bay. [Stats. 1865-66, p. 637.]
Continued in force by Political Code, § 19, and Penal Code, § 23.

ACT 1325.

For the protection of fish in Butte Creek, in the county of Butte.
[Stats. 1871-72, p. 138.]
Amended 1873-74, p. 87. Probably superseded by the general laws on the subject.

ACT 1326.

Regulating salmon fisheries on Eel River. [Stats. 1859, p. 298.]

Continued in force by Political Code, § 19, and Penal Code, § 23. See Hickman v. Swett, 107 Cal. 276.

ACT 1327.

Lake Bigler, preservation of fish in the waters of. [Stats. 1877-78, p. 746.]

This act appears in full in the Penal Code, Appendix, p. 801.

ACT 1328.

Kings River, to prevent destruction of fish in. [Stats. 1877-78, p. 601.]

This act appears in the Penal Code, Appendix, p. 801.

ACT 1329.

To prevent destruction of fish in Napa River and Sonoma Creek. [Stats. 1867-68, p. 13.]

Amended 1871-72, p. 441.

Continued in force by Political Code, § 19, and Penal Code, § 23.

ACT 1330.

San Antonio Creek, preventing catching of fish in, by seines, nets, or weirs. [Stats. 1875-76, p. 362.]

This act appears in the Penal Code, Appendix, p. 799.

See Penal Code, §§ 636, 686a.

ACT 1331.

Plumas and Sierra counties, protecting fish in waters of. [Stats. 1871-72, p. 794.]

Repealed 1873-74, p. 154.

ACT 1332.

Plumas and Sierra counties, protecting fish in. [Stats. 1873-74, p. 154.]

Repealed 1875-76, p. 725.

ACT 1333.

Siskiyou County, preservation of fish in waters of. [Stats. 1871-72, p. 385.]

"Probably superseded by the general laws upon the subject. See Penal Code, §§ 635, 636, 686a."—Code Commissioners' Note.

ACT 1334.

Concerning trout in Siskiyou County. [Stats. 1865-66, p. 857.]

Continued in force by Political Code, § 19, and Penal Code, § 23.

"Modified by Penal Code, §§ 628, 632."—Code Commissioners' Note.

ACT 1335.

Concerning the payment of costs of trials of persons charged with violation of the laws for the preservation of fish. [Stats. 1887, p. 5.]

Amended 1908, p. 20.

This act provided that the expense should be borne by the state. It is in the Penal Code Appendix, p. 796.

ACT 1336.

An act empowering the boards of supervisors of the several counties of the state, in their discretion, to establish and maintain fish hatcheries and provide for the expense of the establishment and maintenance thereof. [Approved March 21, 1907. Stats. 1907, p. 757.]

ACT 1337.

An act to prevent fishing or the taking of fish by means of weirs, dams, nets, traps or seines, in False Bay or in the entrance thereto. [Approved March 25, 1909. Stats. 1909, p. 751.]

ACT 1338.

An act to prevent fishing, or the taking of fish by means of weirs, dams, nets, traps or seines in the bay of San Diego or in the entrance thereto. [Approved February 19, 1907. Stats. 1907, p. 2. Repealed 1909, p. 942.]

ACT 1339.

An act to prevent the taking of fish by means of weirs, dams, nets, traps or seines, in certain tide water on the coast of Mendocino County. [Approved March 25, 1909. Stats. 1909, p. 753.]

ACT 1340.

An act to create a preserve for crabs within Eel River and the entrance thereto and Humboldt and Trinidad Bays and the waters of the Pacific Ocean adjacent thereto, and to regulate the taking of crabs from such preserve for commercial purposes. [Approved March 13, 1909. Stats. 1909, p. 298.]

ACT 1340a.

An act to prevent the destruction of wild game within the boundaries of the Pinnacles forest reserve and Pinnacles national monument in the counties of San Benito and Monterey, in the state of California. [Approved March 25, 1909. Stats. 1909, p. 750.]

ACT 1340b.

An act to create a fish game preservation fund and to unite the "fish commission fund," and the "game preservation fund" into a common fund to be known as "fish and game preservation fund." [Approved March 15, 1909. Stats. 1909, p. 392.]

ACT 1340c.

An act to provide for the transfer to the state of California by owners of patented lands therein of the right to preserve and protect wild game on such patented lands; to define the duties of the state board of fish commissioners in relation to the control of such rights, and to declare the hunting of wild game within the exterior boundaries of the land to which such right attaches, a misdemeanor. [Approved March 21, 1907. Stats. 1907, p. 788.]

Amended 1909, p. 518.

ACT 1340d.

An act to create a preserve for shell-fish and invertebrate animals within a portion of the bay of Monterey and to prohibit taking the same from such preserve for commercial purposes. [Approved March 21, 1907. Stats. 1907, p. 758.]

TITLE 190.**GAS.****ACT 1341.**

For the protection of gas-light companies. [Stats. 1859, p. 309.]

Superseded by Penal Code, § 498.

ACT 1342.

Concerning gas companies. [Stats. 1869-70, p. 815.]

This act provided for the granting of franchises to gas companies. It was continued in force by § 19, Political Code, but was superseded by the constitution of 1879, art. XI, § 19.

Citations. Cal. 189/183.

ACT 1343.

To regulate the use of illuminating gas. [Approved March 20, 1903. Stats. 1903, p. 289.]

This act appears in full in Penal Code, Appendix, p. 804. It provided gas should not be turned off at meter by hotel or lodging-house keepers.

ACT 1344.

An act to regulate the quality and standard illuminating power and the price of gas in all cities within the state of California having a population of one hundred thousand or more.

[Approved March 4, 1878. Stats. 1877-78, p. 167.]

Repealed as to San Francisco by c. 2 of art. I of the charter.

Citations. Cal. 62/591; 76/326.

Quality and price of gas to be fixed by whom.

§ 1. That in all cities in the state of California having a population of one hundred thousand or more, the local legislative body thereof, whether known and designated as the board of supervisors, or board of aldermen, or common council, or board of trustees, or otherwise, are

hereby authorized and required to fix the standard quality and illuminating power of gas to be furnished, and the rate and price for each one thousand cubic feet to be charged therefor by any person, company, or corporation whose pipes or mains are or shall be laid down in the streets or highways of such city, for the purpose of supplying gas for the use of such city, or for the inhabitants thereof, or for such city and its inhabitants; provided, however, that said board or local authority shall not fix or establish the standard quality and illuminating power of gas in such city at less than sixteen-candle power, or such that five cubic feet of gas per hour so furnished shall give light at least equal to that afforded by the combustion of sixteen standard sperm candles consuming one hundred and twenty grains of sperm each per hour, the burner to be used in making such test to be that best adapted to the economical consumption of gas; and provided, further, that such board of supervisors, or local legislative authority, by whatever name it may be known, shall not fix or establish the rate or price of gas so furnished to such city or its inhabitants at any greater price or rate than three dollars per thousand cubic feet.

Mayor to appoint an inspector.

§ 2. It shall be the duty of the mayor of each city having the population mentioned in section 1 of this act, and such mayor is hereby required, within thirty days after the passage and approval of this act, to appoint, subject to the approval of the board of supervisors, or other local legislative body aforesaid, a person of competent experience and knowledge of and concerning the proper qualities and illuminating power of gas, and who shall not be directly or indirectly interested in or connected with any person, company, or corporation engaged in the manufacture or furnishing of illuminating gas in such city, or elsewhere, either to such city or its inhabitants, or any of them, either as a stockholder or otherwise, who shall be known and designated as gas inspector of such city, who shall hold his said office for the term of two years, or until his successor shall be appointed and qualified; subject, however, to removal from his said office by the mayor, with the concurrence of a majority of the board of supervisors, or other local legislative board aforesaid, for any one of the following causes, to wit, by reason of any interest in the manufacture or furnishing of gas in such city, whether such interest existed at the date of his appointment or was afterward acquired, or for want of competent knowledge, skill, or experience to enable him properly to discharge the duties of said office, or for any neglect, misconduct, or inefficiency in the discharge of the duties of said office, to the prejudice of such city, or its inhabitants, or any of them. The person so appointed shall, before he enters upon the duties of said office, and within ten days after his appointment and confirmation, take and subscribe an oath or affirmation before the county judge of the county in which such city is situated, that he will faithfully and impartially perform and discharge all the duties required by this act and the ordinances or resolutions of said board passed or adopted under and pursuant to the provisions thereof,

as such gas inspector of such city, and shall also, within the same time, give bond to the city in and for which he is appointed, in the sum of ten thousand dollars, with sureties to be approved by said board, conditioned for the faithful performance of the duties of said office, which said oath and bond shall be filed with the clerk of said board. Such gas inspector shall be entitled to a salary to be fixed and allowed by said board, which shall be paid monthly out of the general fund of such city.

Duty of inspector.

§ 3. It shall be the duty of such inspector, immediately upon his appointment and qualification as such officer, as aforesaid, to make a careful examination and inquiry by inspection, letter, or otherwise, as to the quality and illuminating power of the gas furnished and used in the principal cities of the United States, and the prices charged therefor, and also the comparative cost of the manufacture and supply of gas in other cities of the United States, with the cost of the manufacture and supply of the same in the city for which he is such inspector, and report fully the result of such examination and information to said board within six months after his appointment and qualification; and upon receiving such reports, said board shall proceed to fix and establish the quality and standard illuminating power of gas to be used in such city, and the maximum price to be charged therefor; and such standard and price may be changed by said board from time to time, not oftener than once every year, as increased consumption or other circumstances may in their judgment require.

Same.

§ 4. After said board shall have fixed and established the quality and illuminating power, and the price of gas, as hereinbefore, it shall be the duty of such inspector to examine and inspect, from time to time, at least once every week, without notice to the person, company, or corporation furnishing the same, the quality and illuminating power of the gas furnished to such city and the inhabitants thereof, and in case the same shall fall below the standard fixed by said board, the said inspector shall forthwith report the same to said board; and at such other times as he may be requested thereto by the mayor or any committee of said board, he shall report to said board upon any and all matters connected with the manufacture, supply, and consumption of gas coming within the scope of his official duties, and specially upon any subject or subjects, matters or things, connected therewith and specified in such request.

Certain acts declared unlawful.

§ 5. After said board shall have fixed and established the quality and standard illuminating power of the gas, and the price per thousand cubic feet, as in this act provided to be charged therefor, it shall be unlawful for any person, company, or corporation to furnish to such city, or any inhabitant thereof, or other person therein, for illuminating purposes, gas of a lower standard or quality, or to charge or re-

ceive therefor a higher price than is provided by said board, under the authority and subject to the limitations of this act; and for every violation of the provisions of this act, or the provisions of any order, resolution, or ordinance of said board made in pursuance thereof, every such person, company, or corporation shall incur a penalty of not less than one hundred nor more than one thousand dollars, to be recovered in a civil action in the name and for the use of such city, in any court of competent jurisdiction; and each day upon which such person, company, or corporation shall, without reasonable cause or excuse therefor, furnish gas of a lower quality or standard illuminating power than that fixed by said board, shall constitute and be considered and held one violation thereof, and each month or shorter period for which said person, company, or corporation shall take an account of gas consumed, and for which they shall charge or receive a price greater than that fixed by said board, shall be held and regarded as one offense, and any number of such offenses of either class, or both, may be joined in the same action, and the several penalties for the several violations proved or confessed in said action may be united and recovered in the same judgment; and such person, company, or corporation shall also be liable to such city and to any and each person or corporation who shall be injured by any such violation, in double the amount of damages actually sustained.

Actions tried, by whom.

§ 6. All actions for penalties under the provisions of this act shall be tried by the court, unless a jury be demanded by either party; and when such action shall be tried by a jury, the jury shall find, as to each violation charged in the complaint, that "the defendant is guilty," or "the defendant is not guilty"; and upon each charge in respect to which the jury has found the defendant guilty, the court shall fix the penalty, and render judgment for the aggregate amount of such penalties, together with costs of suit.

§ 7. All penalties recovered under this act shall be paid into the general fund of such city.

§ 8. This act shall apply to the city and county of San Francisco, as well as to cities whose municipal government is distinct from the county in which they are located.

§ 9. This act shall take effect immediately.

TITLE 191.

GEOLOGICAL SURVEY.

ACT 1349.

To continue the geological survey of the state of California. [Stats. 1871-72, p. 355.]

"Probably intended to be repealed by 1873-74, p. 694, c. 'CDLXIII.'—Ochs Commissioners' Note.

ACT 1350.

State geological survey, preservation of material of. [Stats. 1873-74, p. 694.]

TITLE 192.**GIFTS.****ACT 1355.**

To provide for the receipt of donations to the state, counties, cities and counties, or towns. [Stats. 1880, p. 29.]

Codified by § 458a, Political Code. See, also, § 4052a, Political Code.

ACT 1356.

To authorize the several counties, cities and counties, cities, and towns to receive gifts. [Stats. 1881, p. 2.]

See § 1275, Civil Code, and note. §§ 458a and 4052a, Pol. Code; also Act 1355, ante.

TITLE 193.**GILROY.****ACT 1357.**

Incorporating Gilroy. [Stats. 1869-70, p. 263.]

Amended 1871-72, p. 356; 1875-76, p. 724.

TITLE 194.**GLENN COUNTY.****ACT 1362.**

To create the county of Glenn, establish the government and provide for its organization. [Stats. 1891, p. 98.]

Amended 1898, p. 158.

Citations. Cal. 98/228; 104/286; 122/429; 152/228.

TITLE 195.**GOATS.**

To protect cashmere and angora goats from the ravages of dogs.

See tit. "Dogs," ante.

ACT 1367.

An act to prevent buck goats running at large. [Approved March 23, 1878. Stats. 1877-78, p. 437.]

Codified by § 597g of Penal Code, 1905: See note to § 597g, Penal Code.

Goats in particular cities or counties. See particular title.

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TITLE 196.**GOLDEN CITY HOMESTEAD ASSOCIATION.****ACT 1372.**

To authorize sale and conveyance of lands in San Francisco to Golden City Homestead Association. [Stats. 1863-64, p. 463.]

This act permitted the commissioners of swamp and overflowed lands to sell certain lands to this homestead association.

TITLE 197.**GOOD TEMPLARS.****ACT 1377.**

Concerning Independent Order of Good Templars. [Stats. 1863, p. 101.]

See § 288, Civil Code.

This act gave authority to acquire property necessary to carry out its charitable purpose.

TITLE 198.**GOVERNOR.****ACT 1382.**

Authorizing the appointment of a stenographer for. [Stats. 1891, p. 1.]

This act appears in full in Political Code, Appendix, tit. "Governor."

ACT 1383.

Governor's mansion, fitting up for use as a state printing office and state armory. [Stats. 1873-74, p. 903.]

Repealed 1875-76, p. 22 (Am.).

ACT 1384.

Providing for the maintenance of a residence for. [Stats. 1899, p. 150.]

ACT 1385.

Providing for the construction and furnishing of a residence for. [Stats. 1899, p. 73.]

Amended 1908, p. 415.

ACT 1385a.

An act providing for the maintenance of a residence for the governor of the state of California, and providing the salaries of the necessary employees and servants selected and employed by the governor therein, and for the appropriation of necessary moneys for such purpose, and directing the state controller to issue warrants upon the general fund, and directing the state treasurer to pay said warrants. [Approved March 11, 1907. Stats. 1907, p. 214.]

ACT 1386.

Empowering the governor to execute a quitclaim deed to the successors in interest of James Bowman. [Stats. 1893, p. 151.]

ACT 1387.

Imposing certain duties on, respecting rewards. [Stats. 1875-76, p. 855.]

Repealed by § 1547, Penal Code, as amended 1905.

Citations. Cal. 63/466.

ACT 1388.

An act to authorize, empower, and direct the governor of the state of California to employ counsel, agents, and attorneys for the purpose of prosecuting, collecting and recovering the claims of the state of California against the United States of America, to prescribe the terms and conditions of the employment, the rate of compensation therefor, and the manner of payment thereof. [Approved March 23, 1907. Stats. 1907, p. 938.]

TITLE 199.

GRAND ARMY OF THE REPUBLIC.

ACT 1392.

To prevent persons from unlawfully wearing badge of Grand Army of the Republic. [Stats. 1887, p. 82.]

Amended 1907, p. 81.

This act appears in full in Penal Code, Appendix, p. 805.

TITLE 200.

GRASS VALLEY.

ACT 1397.

Incorporating Grass Valley. [Stats. 1861, p. 153.]

Amended 1862, p. 98; 1868-64, p. 57; 1865-66, p. 363; 1869-70, pp. 16, 47; 1877-78, p. 192. Repealed by new charter 1893, p. 628.

TITLE 201.

GROWING TREES.

ACT 1402.

To protect growing timber on possessory claims and other private property, and on streets and highways and public grounds. [Stats. 1862, p. 307.]

Superseded by Penal Code.

ACT 1403.

To prevent the destruction of timber on the public lands of this state. [Stats. 1863-64, p. 136.]

Supplemented 1868-64, p. 435. Superseded by Penal Code.

ACT 1404.

To provide for the punishment of persons cutting timber upon or carrying away the same when cut down from any of the swamp and overflowed, tide, marsh, or school lands. [Stats. 1863, p. 739.]

Superseded by Penal Code, § 603.

ACT 1405.

To protect the Big Tree groves of Fresno, Tulare, and Kern counties.
[Stats. 1873-74, p. 347.]

This act appears in full in the Penal Code, Appendix, p. 806.

TITLE 202.**GUARDIAN AND WARD.****ACT 1410.**

To provide for the appointment and prescribe the duties of guardians.
[Stats. 1850, p. 268.]

Supplemented 1858, p. 129; 1857, p. 120. Amended 1860, p. 177; 1861, p. 603; 1869-70, p. 791. Superseded by Civil Code, §§ 286-258. See, also, provisions in Code of Civil Procedure.

Citations. Cal. 53/740; 68/86; 98/105.

TITLE 203.**HABEAS CORPUS.****ACT 1415.**

Concerning the writ of habeas corpus. [Stats. 1850, p. 333.]

Amended 1854, p. 26. Supplemented 1859, p. 15. Superseded by Penal Code, §§ 1473-1505.

TITLE 204.**HARBOR COMMISSIONERS.****ACT 1420.**

Authorizing the reduction or abolition of rates of dockage by. [Stats. 1871-72, p. 797.]

Probably superseded by Political Code, § 2526, as amended in 1878.

ACT 1421.

To authorize the board of state harbor commissioners to make repairs upon private wharves in their possession. [Stats. 1873-74, p. 663.]

This act appears in full in Political Code, Appendix, tit. "Harbor Commissioners."

ACT 1422.

Concerning state harbor commissioners. [Stats. 1873-74, p. 910.]

Superseded apparently by the provisions of §§ 2520-2554, Political Code.

This act related to the harbor commissioners of San Francisco and placed them under the control of the state harbor commissioners.

ACT 1423.

State harbor commissioners, granting further powers to. [Stats. 1873-74, p. 912.]

Superseded apparently by the provisions of §§ 2520-2554, Political Code.

ACT 1424.

To authorize the board of state harbor commissioners to construct railroads over state lands and along the waterfront of San Francisco, and to regulate the use of the same. [Stats. 1889, p. 388.]

Superseded by Political Code, § 2524.

ACT 1425.

To provide penalties for failure to pay tolls, by false returns or otherwise, to any board of state harbor commissioners. [Stats. 1891, p. 27.]

This act appears in full in Political Code, Appendix, tit. "Harbor Commissioners."

ACT 1426.

To provide for the issuing and sale of state bonds to create a fund for the use of the state board of harbor commissioners in constructing and furnishing of a general ferry and passenger depot in San Francisco. [Stats. 1891, p. 110.]

ACT 1427.

To extend the jurisdiction of the harbor commissioners over East Street, San Francisco. [Stats. 1891, p. 261.]

Superseded by Political Code, § 2524, as amended 1901, p. 620.

ACT 1428.

Authorizing the board of harbor commissioners to rectify the alignment of East Street, and employing the board to sell, condemn, and acquire adjacent property. [Stats. 1891, p. 270.]

This act appears in full in Political Code, Appendix, tit. "Harbor Commissioners."

ACT 1429.

To authorize and empower the board of state harbor commissioners to institute condemnation proceedings against certain property on the corner of Market, Sacramento and East streets, in the city and county of San Francisco, and extending their jurisdiction over the same. [Stats. 1895, p. 79.]

This act appears in full in Political Code, Appendix, tit. "Harbor Commissioners."

ACT 1430.

To authorize the state board of harbor commissioners to establish and maintain a free public market upon the waterfront of San Francisco, and providing for the expenses and regulations thereof. [Stats. 1897, p. 238.]

Amended 1908, p. 76.

This act appears in full in Political Code, Appendix, tit. "Harbor Commissioners."

ACT 1431.

Empowering the state board of harbor commissioners to insure against loss or damage by fire the property of the state located on the waterfront of San Francisco. [Stats. 1901, p. 809.]

Amended 1905, p. 295.

This act appears in full in Political Code, Appendix, tit. "Harbor Commissioners."

ACT 1432.

Concerning the waterfront of the city and county of San Francisco. [Stats. 1877-78, p. 263.]

Amended 1880, p. 10; 1889, p. 379; 1891, p. 283; 1895, p. 194; 1901, p. 627; 1905, p. 109; 1909, p. 484. See Political Code, § 2524. See note to Act 3335. This act related to the jurisdiction of the harbor commissioners.

ACT 1433.

An act to provide for the reconstruction and repair by the Board of State Harbor Commissioners of the damaged property of the state of California situated on the waterfront of the city and county of San Francisco, and making an appropriation therefor. [Approved June 14, 1906. Stats. 1906, p. 38.]

One hundred thousand dollars was appropriated for the purpose indicated.

Consult also Act of 1907, p. 249, appropriating \$250,000 for the same purpose.

ACT 1434.

An act to authorize and direct the board of state harbor commissioners to institute condemnation proceedings against certain property north of India basin, and extending to Islais creek in the city and county of San Francisco and extending the jurisdiction of said board over the same, and providing for the payment of judgments from the proceeds of bonds issued and sold under the provisions of an act entitled "An act to provide for the issuance and sale of state bonds to create a fund for the acquisition by the board of state harbor commissioners, of a necessary area for a tidal basin, for wharves, docks, piers, harbors and appurtenances, in the city and county of San Francisco; to create a sinking fund for the payment of said bonds; and defining the duties of state officers in relation thereto; making an appropriation of one thousand dollars for the expense of printing said bonds; and providing for the submission of this act to a vote of the people." [Approved March 24, 1909. Stats. 1909, p. 711.]

ACT 1435.

An act to provide for the issuance and sale of state bonds to create a fund for the improvement of San Francisco harbor by the construction by the board of state harbor commissioners of wharves, piers, state railroad, spurs, betterments, and appurtenances and necessary dredging and filling in connection therewith in the city and county

of San Francisco; to create a sinking fund for the payment of said bonds; to define the duties of state officers in relation thereto; to make an appropriation of five thousand dollars for the expense of printing said bonds; and to provide for the submission of this act to a vote of the people. [Approved March 20, 1909. Stats. 1909, p. 522.]

This act provided for the submission to the people of a bond issue of \$9,000,000 for the purposes indicated.

ACT 1436.

An act to provide for the issuance and sale of state bonds to create a fund for the acquisition by the board of state harbor commissioners, of a necessary area for a tidal basin, for wharves, docks, piers, harbors and appurtenances, in the city and county of San Francisco; to create a sinking fund for the payment of said bonds; and defining the duties of state officers in relation thereto; making an appropriation of one thousand dollars for the expense of printing said bonds; and providing for the submission of this act to a vote of the people. [Approved March 25, 1909. Stats. 1909, p. 713.]

This act provided for the submission to the people of a bond issue for \$1,000,000 for acquiring India basin.

ACT 1437.

An act making an appropriation to pay for the settlement of disputed titles to or boundaries of land claimed by the state of California fronting on the bay of San Diego. [Approved March 11, 1907. Stats. 1907, p. 238.]

This act appropriated \$10,000 to pay the expenses incurred by the harbor commissioners of San Diego in settling or establishing disputed titles to lands on San Diego bay.

ACT 1438.

An act to provide for the issuance and sale of state bonds to create a fund for the construction by the board of state harbor commissioners for the bay of San Diego of harbor improvements consisting of a seawall, wharves, piers, state railroad, spurs, betterments and appurtenances in the county of San Diego; to create a sinking fund for the payment of said bonds; to define the duties of state officers in relation thereto; to make an appropriation of one thousand five hundred dollars for the expense of printing said bonds, and to provide for the submission of this act to a vote of the people. [Approved April 16, 1909. Stats. 1909, p. 942.]

This act provided for the submission to the people of a bond issue of \$1,500,000 for the improvement of San Diego harbor.

TITLE 205.

HASTINGS COLLEGE OF THE LAW.

ACT 1440.

[Hastings College of Law, creating. [Stats. 1877-78, p. 533.]

"Superseded by amendatory act of 1883, p. 26, but this act was pronounced unconstitutional in *People v. Kewen*, 69 Cal. 215. See, also, 1885, p. 208; and *Foltz v. Hoge*, 54 Cal. 28. This act was superseded by Political Code, §§ 1478-1486d, as added in 1907."—Code Commissioners' Note.

TITLE 206.

HAYWARDS.

ACT 1441.

Incorporating. [Stats. 1875-76, p. 215.]

Superseded by incorporation, in 1892, under Municipal Government Act of 1883.

TITLE 207.

HEALDSBURG.

ACT 1446.

Charter of. [Stats. 1873-74, p. 665.]

Amended 1875-76, pp. 90, 891. Superseded by incorporating in 1883, under Municipal Government Act of 1883.

HEALTH.

See "Public Health."

TITLE 208.

HIGHWAYS.

ACT 1448.

An act providing for the laying out, constructing, straightening, improvement and repair of main public highways in any county, providing for the voting, issuing, and selling of county bonds and the acceptance of donations to pay for such work and improvements, providing for a highway commission to have charge of such work and improvements, and authorizing cities and towns to improve the portions of such highways within their corporate limits and to issue and sell bonds therefor.

[Approved March 19, 1907. Stats. 1907, p. 666. Amended 1909, p. 151.]

Bonds for county highways, appointment of commission.

§ 1. The board of supervisors of any county in the state, upon receiving a petition signed by freeholders electors of the county equal in number to at least ten per cent of the vote cast for governor in said county at the last election, praying that the matter of issuing bonds of the county for highway purposes be submitted to the electors of the county, may appoint a highway commission for such county, who shall perform the duties hereinafter specified.

Of whom commission shall consist.

§2. Said highway commission shall consist of three members, who shall be, and have been for two years, bona fide residents and freeholders of such county, and shall be especially qualified to have charge of the improvement of highways. Said commissioners shall be appointed to serve for the term of two years and until their successors are appointed and qualified, and any vacancy in the commission shall be filled by appointment for the unexpired term; provided however, that when the proposition for the issuance of bonds fails to carry at the election held under section 7 of this act, or when all the highway improvements for which bonds are voted under said section 7 are completed, or if there is a surplus in the highway improvement fund after completion thereof, when said surplus has been expended on other highways, the existence of said highway commission shall cease. Thereafter another commission may be appointed under section 1 hereof. Each commissioner shall give a bond for the faithful performance of his duties, to be approved by the board of supervisors, in such amount as said board may require.

Main highway defined.

§3. For the purpose of this act a main public highway is defined to be a highway connecting different cities and towns in the same or different counties, or connecting any city or town in one county with the public highway system of another county. Provision may be made under this act for the improvement of any number of such highways jointly, to be paid for with the proceeds of one bond issue.

Duty of commissioners. New highways.

§4. Immediately upon their appointment said commission shall proceed with all diligence to investigate carefully the main public highways of the county and the condition thereof, and to have made a map showing said main public highways, their connections, and such other information in regard thereto as the commission may deem necessary for carrying out the purposes of this act, and to ascertain which of said main public highways should be improved by the issuance of bonds, and the kind of improvements to be made thereon, and to estimate the cost of such improvements. And also to investigate carefully the question of laying out and constructing any new public highways which said commission may deem necessary to be laid out and constructed in the county, and to have made a map showing said proposed new public highways, their connections, and such other information in regard thereto as the commission may deem necessary for carrying out the purposes of this act, and to ascertain whether any of said new public highways should be laid out and constructed by the issuance of bonds, and the kind of improvements to be made thereon, and to estimate the cost of such improvements. [Amendment approved March 6, 1909. Stats. 1909, p. 154. In effect immediately.]

Employment of engineer.

§ 5. With the consent of the board of supervisors they may employ a competent engineer or engineers and other experts, at the cost of the county, to make any necessary surveys and prepare said map, and to assist the commission in determining the best material to be used and the best manner of making such improvements and the cost thereof. All surveys made for the purpose of determining the location of highways shall be approved by the county surveyor before the same as adopted by the commission.

Report to board of supervisors.

§ 6. After having ascertained what improvements should be made, and the estimated cost thereof proposed to be covered by a bond issue, the commission shall make and file with the board of supervisors a report setting forth the main public highway or highways proposed to be improved, by their termini, describing generally the kind of improvements to be made thereon, and stating the estimated cost of the work to be done, and the amount to be raised by bonds therefor, and praying the said board of supervisors to call an election for the issuance of bonds of the county therefor, for the estimated amount.

Election to determine whether bonds shall be issued.

§ 7. If said report is not approved by the board of supervisors they may refer it back to said commission for further consideration. If the board approve the report they shall adopt the same, and shall without delay call an election to determine whether bonds of the county shall be issued in the amount recommended by the commission, for the purposes stated in their report. Said election shall be called and held and said bonds issued, sold and paid under and in accordance with all the provisions of law now or hereafter existing in regard to the issuance, sale and payment of county bonds, and all proceedings had in regard to such bonds shall be in accordance with such provisions of law; provided however, that the board may form bond election precincts by consolidating the precincts established for general election purposes to a number not exceeding six for each bond election precinct, and shall appoint only one inspector, two judges and one clerk for each bond election precinct, and provided further, that it shall be sufficient to set forth the purpose of the bond issue in said proceedings by describing the highways to be improved as the same are described in said report of the highway commission. Any defect or irregularity in the proceedings prior to the calling of such election shall not affect the validity of the bonds.

Sale of bonds. Surplus of funds. Donations.

§ 8. Said bonds shall not be sold for less than par, and the proceeds thereof shall be paid into the treasury of the county and placed in a special fund to be denominated the "highway improvement fund"; and shall be used solely for the purposes set forth in said report of the highway commission, or such other purposes as are authorized by this

act; provided that if there shall be any surplus of funds voted for the improvement of any road or roads after the completion thereof, such surplus may be used for the improvement of other main public highways, under the control and direction of the highway commission. The highway commission may receive and accept donations from any person for any work which they are authorized to have done, and the same shall also be paid into the said fund. No moneys shall be paid out of said fund except upon the warrant of the auditor of said county issued upon the order of the highway commission, duly allowed by the board of supervisors thereof.

Supervision of work. Plans and profiles. Contracts for.

§ 9. The doing of the work for which said bonds are issued shall be under the supervision and direction of the highway commission; provided that the final acceptance thereof shall be by the board of supervisors. As soon as the funds raised by the sale of said bonds are in the treasury the commission shall proceed to prepare detailed specifications, plans and profiles for the work to be done, or for such parts of it as they deem it advisable to have done separately, if they have not already done so, and for this purpose they may hire assistants, with the consent of the board of supervisors; and they shall then present said specifications, plans and profiles, with their recommendations in regard to the doing of the work and letting of contracts to the board of supervisors, who shall either adopt or reject the same as presented. If the board adopt the same they shall thereupon advertise for bids for doing the said work, or any part thereof which the highway commission recommend should be done separately, in accordance with said plans, profiles, and specifications, by publishing a notice for ten days in a daily newspaper or two weeks in a weekly newspaper published at the county seat. Every contract for doing any part of said work shall be let, after advertisement as above provided, to the lowest responsible bidder who will give security for the faithful performance of his contract, with sureties satisfactory to the board of supervisors, in such amount as they may fix, which shall be stated in said advertisement; provided however, that the board may authorize the highway commission to make contracts, without advertisement, for any part of said work the cost of which does not exceed one thousand dollars; and provided further, that the board may reject all bids and may thereupon readvertise for bids for doing any part or the whole of said work, or in their discretion authorize the highway commission to purchase the necessary material, purchase or hire tools and appliances, and hire laborers, and to do the work or any part thereof without letting any contract therefor. In such case all contracts for materials, tools or appliances, amounting to more than one thousand dollars in value shall be let by the commission to the lowest responsible bidder, after advertisement as above provided. Said commission may, with the consent of the board of supervisors, hire all necessary engineers, inspectors and superintendents to supervise the performance of said contract, or to have charge of the doing of said work without contract.

Character of materials. Railroads not to use.

§ 10. All improvements constructed under this act shall be of a durable and lasting character; provided, that said commission shall have the power to determine how said highways shall be improved and constructed, and the character of the materials to be used in the improvement and construction thereof. If said commission shall determine that said highways, or any of them, shall be macadamized or paved, then the macadamized or paved portion of the roadbed constructed or any highway or portion thereof improved under this act, shall not exceed sixteen feet in width, unless donations are made to the highway commission for that purpose, in which case such donations may be used to defray the increased cost of constructing such macadamized or paved roadbed more than sixteen feet wide on any part of such highway specified by the donors; but no part of the proceeds of any bond issue shall be expended for such purpose. No railroad, electric road, or street railroad shall be constructed along or upon any highway, or any portion thereof, improved under the provision of this act, except for crossings duly authorized by the board of supervisors or other legislative body having control thereof, nor shall any board of supervisors or other legislative body have power to grant any franchise for the construction of any railroad, electric road, or street railroad along or upon any such highway or portion thereof, except for crossings. [Amendment approved March 6, 1909. Stats. 1909, p. 155. In effect immediately.]

Eminent domain.

§ 11. Whenever the said highway commission shall deem it necessary, the board of supervisors may, on its recommendation, cause any highway it proposes to improve to be widened, straightened, or altered, and cause new highways to be laid out and constructed, and for that purpose they may acquire land in the name of the county by donation or purchase; and may order the condemnation of such land and direct the district attorney to bring an action in the name of the county for that purpose under the provisions of the Code of Civil Procedure in relation to eminent domain. In such action the order of the board of supervisors shall be conclusive evidence of the regularity of all prior proceedings. The cost of purchasing or condemning such land shall be paid out of the highway improvement fund. [Amendment approved March 6, 1909. Stats. 1909, p. 155. In effect immediately.]

Incorporated city may improve portion of highway.

§ 12. No part of any highway lying within the corporate limits of any incorporated city or town shall be improved under the provisions of this act; but, when any highway which is being so improved shall pass through any incorporated city or town, said city or town is hereby authorized to improve the portion of such highway lying within its corporate limits, and for the purpose of raising the necessary funds therefor, to issue bonds in such manner as may be provided by law for the issuing of bonds by such city or town for public improvements.

Repairs.

§ 13. All necessary repairs to any highway improved under this act shall be made by the same officers who may be charged with the duty of repairing other highways of the county, and the cost of such repairs shall be paid out of the general fund of the county.

Highway commission to file statement, when.

§ 14. Said highway commission shall, at least once in every six months, make and file with the board of supervisors a detailed statement of their proceedings, showing the amount of money in the highway improvement fund at the time of their last statement, the amount of all donations since received, and the purposes for which said donations were made, the amount since expended, with the purposes for which it was expended and the balance remaining, the contracts entered into or other obligations incurred by them and still outstanding, the highways in course of improvement or completed since their last statement, and the condition of the work on each, together with any other information that they may consider of interest to the public.

Per diem of commissioners. From what fund paid.

§ 15. Each member of said highway commission shall receive a per diem of five dollars for each day actually and necessarily spent in the discharge of his duties, together with his actual necessary traveling expenses, to be allowed by the board of supervisors and paid monthly. Said per diem and expenses and all other demands against the county which said highway commission are authorized to incur shall be paid out of the general fund of the county until there shall be money in the highway improvement fund derived from the sale of bonds, whereupon the general fund shall be reimbursed from the highway improvement fund for the amounts so expended, and thereafter said per diem and expenses and other demands shall be paid out of said highway improvement fund; provided however, that after the preparation and filing of their report and recommendation for the issuance of bonds the members of said highway commission shall not receive any per diem or expenses unless there is money in said highway improvement fund to pay the same.

§ 16. This act shall take effect immediately.

ACT 1449.

An act to provide for the formation of boulevard districts and the construction, maintenance, and use of boulevards and defining the term boulevard.

[Approved March 22, 1905. Stats. 1905, p. 754. Amended 1909, p. 923.]

§ 1. Any portion of a county not contained in a boulevard district may be formed into a boulevard district under the provisions of this act, and when so formed shall be known and designated by the name and style of — boulevard district (using the name of the district).

of — county (using the name of the county in which said district is located), and shall have the rights herein enumerated and such as may hereafter be conferred by law.

§ 2. A petition for the formation of such boulevard district (naming it) may be presented to the board of supervisors of the county wherein the district is proposed to be formed, which said petition shall be signed by not less than twenty-five freeholders, resident within the proposed district, and shall contain:

(1) The boundaries of the proposed district.

(2) The number of acres contained therein and the approximate value thereof and of the improvements thereon.

(3) A particular description of the boulevard which it is desired to lay out, open and construct.

(4) A request that an election be called within said district for the purpose of determining the question of formation of said boulevard district and the building of the boulevard described in said petition. Whether the amount to be raised be by taxation on taxable property within said district or by the issuance of bonds on the taxable property therein. Such petition must also be accompanied by a map showing the location of said boulevard and of said district, with relation to the territory immediately contiguous thereto; also with a cross-section and profile of said proposed boulevard, together with specifications for the construction thereof, which said map shall be approved as to location of the boulevard and said cross-section, profile and specifications, as to manner of construction, by the county surveyor, of the county in which said proposed district is located, who shall also furnish an estimate of the cost of acquiring the right of way therefor and constructing said boulevard. There shall also be filed with said board of supervisors, at the time said petition is presented, a bond in the sum of not more than three hundred dollars, with two sufficient sureties, to be approved by said board, who shall each qualify in double the amount of the penal sum thereof conditioned that they will pay the expense and cost of said election in an amount not exceeding the amount mentioned in said bond, as the penal sum thereof, in case such election shall fail to carry. [Amendment approved April 15, 1909. Stats. 1909, p. 923.]

§ 3. Such petition must be presented at a regular meeting of said board of supervisors and they shall thereupon fix a time for hearing said petition, not less than twenty-one nor more than thirty days after the date of presentation thereof, and shall publish a notice of the fact that such petition has been filed (referring to the same on file with the clerk of the board of supervisors for further particulars) and giving the date and hour at which said petition will be heard, which said notice shall be published at least once a week for two consecutive weeks in some newspaper published and circulated in said proposed district; provided, that if no newspaper be so published in said district, then said notice shall be so published in some newspaper

published and circulated in the county in which said proposed district is located.

This section was incorporated in the amendatory act of 1909 at page 924, but it was not included in the title of the act and the original section was not changed.

§ 4. Upon the day named for the hearing of said petition, the board of supervisors shall hear the same and may adjourn such hearing from time to time, not more than two weeks in all. On the final hearing they shall make such changes in the proposed boundaries as they may find to be proper, and shall define and establish such boundaries. Any change made by the board of supervisors shall not include any territory outside of the boundaries described in the petition until the board has given at least two weeks' notice of its intention to include such territory in said district, said notice to be given and published as herein provided for the notice of the hearing of said petition.

This section was incorporated in the amendatory act of 1909 at page 924, but it was not included in the title of the act and the original section was not changed.

§ 5. The boundaries established by the board of supervisors shall be the boundaries of such boulevard district until the same shall be changed in the manner provided by law. But, if it shall appear to the board that the boundaries of any such division have been incorrectly described, it shall direct the county surveyor to ascertain and report the correct description of the boundaries, in conformity with the orders of said board of supervisors, which said report must be filed within thirty days from the day of making such order. At the first regular meeting after the filing of said report, the board of supervisors shall ratify the same, with such modifications as they deem necessary, and the boundaries so established shall be the legal boundaries of such boulevard district.

This section was incorporated in the amendatory act of 1909 at page 924, but it was not included in the title of the act and the original section was not changed.

§ 6. The board of supervisors thereupon and not later than the first regular meeting after the establishment of said boundaries, as hereinbefore provided, shall give notice of an election to be held in such proposed boulevard district for the purpose of determining whether such district shall be formed; whether the amount to be raised be by taxation on taxable property within said district or by the issuance of bonds on the taxable property therein, and if the amount to be raised be by the issuance of bonds, said notice shall specify such amount, and said boulevard built as in said petition, maps, cross-sections, profiles, specifications and estimates described. [Amendment approved April 15, 1909. Stats. 1909, p. 924.]

What notice shall specify.

§ 7. Such notice must specify the time and place or places of holding the election, the amount of money proposed to be raised, and the

the use thereof hereinafter provided. [Amendment approved April 15, 1909. Stats. 1909, p. 926.]

Boulevard may be over county road. Term "boulevard" defined.

§ 12. Any boulevard constructed under this act may be constructed over, along or upon any county road or public highway, or any part thereof, and the moneys belonging to such boulevard district may be expended in the improvement of such road or highway to conform to the width and general character of the balance of the boulevard.

By the term "boulevard" as used herein is meant a highway of limited dedication and use, not less than one hundred feet in width and upon which no wagon or heavy teaming, having a tire of less than four inches, shall be permitted, and upon, along and over which no franchise for telephone, telegraph or electric wires or poles or for the operation or running of cars or vehicles upon fixed tracks or rails thereon, shall ever be granted; and any easements granted or condemned for the building of said boulevard shall be so granted or condemned; provided, that nothing herein shall be deemed to apply to or preventing the granting of such franchise or limiting the use of wagons across said boulevard, on, over and along intersecting streets and highways. [Amendment approved April 15, 1909. Stats. 1909, p. 927.]

Eminent domain.

§ 13. All provisions of the law of the state of California relating to streets and highways, including the right of eminent domain, save only section 2 of an act of the legislature of the state of California entitled "an act to repeal Chapter II of Title VI, Part III, of an act of the legislature of the state of California, entitled 'an act to establish a Political Code,' approved March 12, 1872, and each and every section of said Chapter II. And to enact a new Chapter II of Title VI, of Part III, of said code, and substitute the same in place of said repealed Chapter II in said code, relating to roads and highways," approved February 28, 1883, and also an act of the legislature of the state of California entitled "an act for the establishment of a uniform system of road government and administration in the counties of the state of California," approved April 1, 1897, not in conflict herewith, are hereby made applicable to the opening, laying out and maintaining of boulevards constructed hereunder and the acquiring of rights of way therefor.

This section was also included in the amendatory act of 1909 at page 927, but it was not mentioned in the title of the act and the original section was not changed.

Management of district.

§ 14. The board of supervisors of the county in which said boulevard district is located shall have sole control of the management and affairs of said boulevard district.

This section was also included in the amendatory act of 1909 at page 927, but it was not mentioned in the title of the act and the original section was not changed.

ACT 1450.

An act to provide for the location and construction of a public highway from the General Grant Park in Fresno county; thence easterly a distance of about fifty miles to the Kings River canyon; and making an appropriation for the construction thereof; and providing for a commission to take charge of, locate and construct said highway, and to repeal an act entitled "An act to appropriate money for the survey, location and construction of a free wagon road from the town of Mariposa in Mariposa County to the Yosemite Valley," approved March 26, 1895. [Stats. 1905, p. 797.]

See, also, Act of 1909, p. 351, providing for a continuation of the construction of the Kings River highway.

ACT 1451.

Granting to roads and highways a right of way over the public lands of this state. [Stats. 1865-66, p. 855.]

ACT 1452.

To appropriate money to purchase certain roads within Yosemite grant. [Stats. 1889, p. 142.]

The roads included in the act were the Big Oak Flat road and the Yosemite and Wawona road.

ACT 1453.

To declare a part of the Sonora and Mono wagon road, commencing east of Sonora, at a point known as Long Barn, in Tuolumne County and running thence across the summit of the Sierra Nevada Mountains to Bridgeport, in Mono County, a state highway. [Became a law under constitutional provision without governor's approval, March 12, 1901. Stats. 1901, p. 272.]

ACT 1454.

To provide for locating and surveying a proposed highway from a point on the Trinity River, in Trinity County, near the town of North Fork, thence westerly down said river about forty miles to connect with an existing road in Humboldt County, and making an appropriation therefor. [Approved March 26, 1903. Stats. 1903, p. 515.]

ACT 1455.

Providing for the construction of a free wagon road from Mono Lake basin to the Tioga road. [Stats. 1899, p. 26.]

ACT 1456.

To provide for the construction of the unfinished part of the free wagon road from Mono Lake basin to connect with a road called the "Tioga Road," at or near the "Tioga Mine," and making an appropriation therefor. [Approved March 26, 1903. Stats. 1903, p. 523.]

ACT 1457.

To provide for the construction of a state highway or wagon road from Sacramento City to Folsom, in Sacramento County, and appropriating crushed rock and granite or stone blocks for drains and culverts for same. [Approved March 29, 1897. Stats. 1897, p. 239.]

ACT 1457a.

An act to make an appropriation for the location, survey and construction of a state highway from Emigrant Gap, Placer County, in an easterly direction through what is known as the Truckee Pass, to the west end of Donner Lake in Nevada County. [Approved March 13, 1909. Stats. 1909, p. 352.]

ACT 1457b.

An act to make an appropriation for the location, survey and construction of a state highway from a point known as the Mount Pleasant ranch on the road between Quincy and Marysville thence in a southeasterly direction by Eureka to Downieville, Sierra County. [Approved March 8, 1907. Stats. 1907, p. 138.]

ACT 1457c.

An act to provide for the survey, location and construction of a state highway connecting the present county road systems of any one or all the counties of Trinity, Tehama and Shasta with the road system of Humboldt County, which will most conveniently accommodate the citizens of said counties and making an appropriation therefor. [Approved March 8, 1907. Stats. 1907, p. 139.]

ACT 1458.

An act to provide for the care, management and protection of state highways.

[Approved March 24, 1903. Stats. 1903, p. 400.]

§1. If any state highway duly declared, laid out, or erected, is encroached upon by fences, buildings, or otherwise, the highway commissioner of California may require the removal of the encroachment. Notice must be given to the occupant or owner of the land or person causing or owning said encroachment, or must be left at his place of residence, if such be known to the commissioner, or in case of a non-resident, then left with his agent, if known, otherwise it must be posted on the encroachment. Said notice must specify the breadth of the state highway, the place and extent of the encroachment, and require him to remove the same within five days.

§2. If the encroachment is not removed, or commenced to be removed and diligently prosecuted prior to the expiration of the five days from the service or the posting of the notice, the one who caused, owns or controls the encroachment forfeits ten dollars for each day the same

continue unremoved. If the encroachment is such as to effectually obstruct and prevent the use of the road for vehicles, the state highway commissioner must forthwith remove the same.

§ 3. If the encroachment is denied, and the owner, occupant, or person controlling the matter or thing charged as being an encroachment refuses to remove or permit the removal thereof, the state highway commissioner must commence in the proper court an action to abate the same as a nuisance. If he recovers judgment, he may, in addition to having the same abated, recover ten dollars for every day such nuisance remained after such notice, and also his costs, in his said action.

§ 4. If the encroachment is not denied, but is not removed for five days after the notice given as hereinbefore provided, the state highway commissioner may remove the same at the expense of the owner, occupant, or person controlling the same, and recover his costs and expenses, and also ten dollars for each day the same remains after said five days' notice, in an action for that purpose.

§ 5. Whoever obstructs or injures any state highway, or diverts any watercourse thereon, or drains water from his land on any highway, to the injury thereof, by means of ditches or dams, is liable to a penalty of ten dollars for each day such obstruction or injury remains, and must be punished as provided in section 588 of the Penal Code. Any person, persons, or corporations, who shall, by storing or distributing water for any purpose, permit the water to overflow, or saturate by seepage, any state highway, to the injury thereof, shall, upon notification of the state highway commissioner, discontinue and repair the damage occasioned by such overflow or seepage; and should such repair not forthwith be made by such person, persons, or corporations, said state highway commissioner shall make such repairs and if necessary divert the flow of seepage, and recover the expense thereof from such person, persons, or corporation, in an action by law. All persons excavating irrigation, mining, or draining ditches across the state highways shall be required to bridge such ditches under the direction of the commissioner, at such crossings and upon neglect to do so, the state highway commissioner shall construct the same and recover the cost of constructing said bridge or bridges of such person by action, as provided in this section; and whoever willfully injures any bridge on a state highway is hereby declared to be guilty of a misdemeanor, and is also liable for actual damages for such injury, to be recovered by the state in a civil action; provided, further, that every person who knowingly allows the carcass of any dead animal (which animal belongs to him at the time of its death) to be put or remain within one hundred feet of any state highway, and every person who puts the carcass of any dead animal within one hundred feet of any state highway, or who shall deposit, on any state highway any refuse, or waste tin, sheet iron, broken glass, or other refuse matter, is guilty of a misdemeanor.

§6. Whoever removes or injures any mile-stone, mile-board, or guide-post, or any inscription thereon, erected on any state highway, is liable to a penalty of ten dollars for every such offense, and punishable as provided in section 590 of the Penal Code.

§7. Any person may notify the occupant or owner of any land from which a tree or other obstruction has fallen upon any state highway to remove such a tree or obstruction forthwith. If it is not so removed, the owner or the occupant is liable to a penalty of one dollar for every day thereafter until it is removed, and the cost of removal at the suit of the commissioner.

§8. Whoever cuts down a tree so that it falls into any state highway must forthwith remove the same, and is liable to a penalty of ten dollars for every day the same remains in such highway.

§9. Whoever digs up, cuts down, or otherwise maliciously injures or destroys any shade or ornamental trees on any state highway unless the same is deemed an obstruction by the state highway commissioner, and removed under his direction, forfeits one hundred dollars for each such tree.

§10. All penalties or forfeitures and other recoveries given in this act and not otherwise provided for, must be recovered by the state highway commissioner by suit in the name of the state, and paid into the state treasury, and thereafter be used for the purpose of costs or expenses in future proceedings under this act or for state road purposes.

§11. All acts, or parts of acts, in conflict with the provisions of this act, are hereby repealed.

§12. This act shall take effect and be in force from and after its passage.

ACT 1459.

To regulate the widths of tires of wagons to be used on the public highways of the state of California. [Stats. 1897, p. 177.]

Repealed 1900, p. 22.

ACT 1460.

For the establishment of a uniform system of road government and administration in the counties of the state of California. [Stats. 1897, p. 374.]

See § 18 of Stats. 1905, p. 754.

Repealed by County Government Act: Davis v. Whidden, 117 Cal. 618.

ACT 1461.

To create a bureau of highways, and prescribe its duties and powers, and to make an appropriation for its expenses. [Stats. 1895, p. 263.]

Superseded 1897, p. 443.

ACT 1462.

An act to create a department of highways for the state of California, to define its duties and powers, to provide for the appointment of officers and employees thereof, and to provide for the compensation of said officers and employees, and for the additional expenses of said department, and to make an appropriation therefor for the remainder of the forty-eighth fiscal year. [Approved April 1, 1897. Stats. 1897, p. 443.]

Repealed 1907, p. 215.

ACT 1463.

An act to provide for the protection and preservation of public highways from damage by storm, waters and floods, and to authorize the expenditure of public moneys for the purposes thereof. [Approved April 1, 1897. Stats. 1897, p. 404.]

Superseded by § 4043 of Political Code.

ACT 1464.

An act relating to the granting by counties and municipalities of franchises for the construction of paths and roads for the use of bicycles and other horseless vehicles. [Approved March 27, 1897. Stats. 1897, p. 191.]

Codified by § 524 of Civil Code. See Pol. Code, § 4047; also Stats. 1901, p. 267. § 11, and Stats. 1905, p. 780, § 11.

ACT 1465.

An act to provide for work upon public roads, streets, avenues, boulevards, lanes and alleys not within the territory of incorporated cities or towns; for the incidental establishment of grades thereof; for the construction therein or thereon of sidewalks, sewers, man-holes, bridges, cesspools, gutters, tunnels, curbing and crosswalks; for the issue of bonds representing the costs and expenses thereof; for a special fund derived in part from the county road fund and in part by special assessment upon a district, and for the establishment of such districts.

[Approved March 21, 1907. Stats. 1907, p. 806.]

Road district improvement, powers of board of supervisors. May issue bonds. Special taxes.

§ 1. Power is hereby vested in the board of supervisors of every county in this state, by and under the procedure prescribed in this act, to grade or re-grade to the official grade, plank or re-plank, pave or re-pave, macadamize or re-macadamize, gravel or re-gravel, pile or re-pile, cap or re-cap, oil or re-oil the whole or any portion of roads, streets, avenues, boulevards, lanes or alleys so far as not within the territory of any incorporated city or town, and so far as by dedication or otherwise, public and open to public use, and to do so for any

length or width of the same, one of the same or any number of the same in combination, and to construct therein or thereon sidewalks, sewers, manholes, culverts, bridges, cesspools, gutters, tunnels, curbing and crosswalks, and to do the aforesaid thing singly or in any combination of the same, and the various items of the said work and constructions need not be coterminous; and to issue bonds representing the costs and expenses of any said work or constructions as in this act hereafter provided; and to constitute a fund for the payment of such bonds as in this act hereafter provided; and to constitute a special fund for the payment of such bonds as in this act hereafter provided; and to levy special assessment taxes upon a district as in this act hereafter provided; and to establish said district and determine its boundaries as in this act hereafter provided; and, as incidental to the exercise of the powers aforesaid, to establish official grades within said district and such districts; and to transfer from county road funds to such special funds as in this act hereafter provided.

But said board of supervisors are hereby prohibited from doing, under the provisions of this act, any work (except sewer work) within the right of way for any railroad or within any area which by law is required to be kept in order or repair by any person or company having railroad tracks thereon, and this prohibition shall have the effect of excepting the prohibited work from that described in any resolution of intention in any proceeding under this act, and of charging all persons with notice of such exception or exclusion, and such exception of said prohibited work need not be made in any such resolution of intention.

Specifications to be furnished. How resolution of intention shall be designated.

§ 2. Before passing any resolution of intention under this act, specifications for work substantially the same as that described in the resolution of intention and for a district substantially the same as that described in the resolution of intention shall be furnished by some competent person who shall have been designated by the board of supervisors for that purpose by a resolution to be entered by the clerk upon the minutes of said board, and, except where there is already an official grade thereof, as a part of such specifications, grades shall be specified for all roads, streets, avenues, boulevards, lanes and alleys within the described district so far as the same are within such district.

Neither the work nor the district need be described in the resolution appointing such person except so far as may be sufficient to identify the work and district for which the specifications are prepared, and for such purpose it shall suffice to designate the same as "In the Matter of Road District Improvement No. — and Resolution of Intention No. —" (inserting the same number in both blanks).

Such specifications shall include an estimate of the aggregate amount of the cost of the work inclusive of incidental expenses and of the procedure. Such specifications shall be signed by the person designated

to furnish them and be filed with the clerk of the board of supervisors.

Resolution of intention to order work, form of. Bonds.

§ 3. Before ordering any work to be done under this act, the board of supervisors shall pass a resolution of intention so to do. Such resolution may, in form, and shall, in substance, be (filling all blanks) as indicated following, to wit:

In the Matter of Road District Improvement No. — Resolution of Intention No. — (the same number for both blanks).

Resolved: That it is the intention of the Board of Supervisors of the county of —, State of California, proceeding under and by virtue of the Road District Improvement Act of 1907, and in the Matter of Road Improvement District No. —, on the — day of —, 190—, at the hour of — M. of that day or as soon thereafter as the matter can be heard, at the chambers of said board, to order work to be done, as follows: (Here insert a description of the work, stating the territorial extent thereof with all reasonable exactness, and in other particulars generally, yet so as to indicate fairly and approximately its probable cost), the said work to be done in accordance with the specifications therefor filed with the clerk of said board on the — day of —, 190—, except as the boundaries of the district and grades therein specified may be changed at the hearing of the matter herein-after mentioned, which specifications are made part hereof, and to which all persons are referred for further particulars as to said work. For the costs and expenses of the work and the proceeding bonds will be issued to the amount of the same, bearing interest at the rate of — per cent per annum, payable semi-annually, and one — part of the principal annually, all in gold coin.

A special fund for the payment of said bonds is to be constituted partly by transfer of moneys from county road funds and partly by the levy of special assessment taxes upon all land within a district to be known as "Road Improvement District No. — of the County of —."

Such district (as proposed) being all that territory in the county of —, state of California, within exterior boundaries as follows, to wit: — (the blank to be filled with a careful statement of the exterior boundaries of the district).

Notice is hereby given that at the time specified hereinbefore for ordering the work, the Matter of said Road District Improvement No. — will come up for hearing, and all objections, which are, under the provisions of said Road District Improvement Act of 1907, entitled to be heard or determined, will then be heard and determined, and the boundaries of said district and grades therein be finally determined and established.

The —, (here insert name and character of newspaper), is hereby designated as the newspaper for making publication of this resolution and for making all other publications in the proceeding.

—, a competent person, is hereby appointed superintendent of work with compensation at the rate of — dollars per diem for days actually spent in performance of duty under this appointment.

The foregoing resolution was, on the — day of —, 190—, passed by the board of supervisors of the county of —, State of California.

Attest. —

Clerk of Board of Supervisors of said county of —.

By —

(Adding if the fact so be)

Deputy Clerk.

The principal and interest of the bonds representing the cost of work done under the provisions of this act, shall be payable in gold coin of the United States of America, and the board of supervisors is authorized to determine the time, not to exceed twenty years, in which bonds issued to represent the cost of the work shall be paid, and to determine the rate, not to exceed seven per cent per annum of the interest to be paid thereon, which interest shall be payable semi-annually, and to make such bonds in all respects as indicated by the form therefor, in this act hereafter provided.

Publication of resolution.

§ 4. Such resolution of intention shall be filed, and be published by at least two insertions in the newspaper therein designated, which shall be a newspaper published and circulated in the county, or, if there be no such newspaper, then in any newspaper designated by said board of supervisors in such resolution. Printed copies of such resolution, headed "Notice of Road District Improvement," such heading to be in letters not less than one inch in length, shall be, by the superintendent of work, posted along the line of the work described in said resolution, at not more than one hundred feet in distance apart, but not less than three in all.

Affidavits in proof of such publication and posting shall be filed with the clerk of the board of supervisors. When, before the day of the hearing specified in the resolution of intention, twenty days have elapsed since the posting and the first publication (they need not be simultaneous) of the resolution of intention, the board of supervisors shall have acquired power to proceed with such hearing and to take all other action in the proceeding as in this act authorized.

The determination of the board of supervisors to proceed with such hearing, whether evidenced by an express declaration or by its proceedings to make other determinations at such hearing shall be presumptive evidence, at the least, of the existence of all the facts upon which the power of the board to proceed depends, except such as are required to appear of the record in the proceeding, and except, also, in so far as such presumption is rebutted by the record in the proceeding.

Objections to work.

§ 5. At any time before the day in the resolution of intention specified for ordering the work and the hearing of the matter, any

owner of land within the boundaries of the district as set forth in said resolution, may, severally or with other such owners, file with the clerk of the board of supervisors written objection to the ordering of the work, as an entirety and not merely to some part thereof, as described in the resolution of intention.

If upon said hearing it appears that a majority of the owners of land within the district, as set forth in the resolution of intention, have so in writing made objection going to the entirety of the work described in the resolution of intention and to the ordering of the same, the board of supervisors shall, by a resolution, to be entered in its minutes, so find; and thereupon such board shall have no power to proceed further under said resolution of intention, or to pass any resolution of intention for doing the same work, during a period of one year, next after the time of such finding; and the accrued costs of the proceedings shall be a charge upon the county. But if the fact be that a majority of the owners of land lying within the district, as set forth in said resolution of intention, have not so in writing made objection going to the ordering of the work, as an entirety, the board of supervisors shall so find, and thereupon proceed with the hearing; but such finding need not then be in writing and may, for the purpose of proceeding with the hearing, be a mere announcement of the board, to be noted in the minutes by the clerk.

At the conclusion of the hearing, however, the said finding shall, severally or with other determinations of the board, be made in writing to be filed and entered upon the minutes of the board.

Owners of land within the meaning of this section are those and those only, who appear to be such upon the records in the recorder's office of the county in which the district is situated, on the day before the day for said hearing, and an executor or administrator shall be deemed representative of his decedent, and a trustee of an express trust in land other than as security for the payment of money, of the land held in such trust, and a trustee in bankruptcy, of the bankrupt.

Next after in order of hearing, the board shall proceed to hear such objections as may be made to the grades specified in the specifications.

Thereafter, in the order of the hearing shall be heard such objections as shall be made to the boundaries of the district as set forth in the resolution of intention. Objection to the grades or to the boundaries of the district may be made by an owner of land lying within the district upon the hearing without any written statement of the same.

The hearing may be continued from time to time by the board of supervisors by an order to be entered in the minutes of the board. -

Declaration of board to order work. Boundaries of district. Grades.

§ 6. Unless the power to proceed shall have ceased, as hereinbefore provided, the board of supervisors shall in conclusion of the aforementioned hearing, and as a sufficient determination of all questions arising thereat, by resolution or resolutions to be entered upon its

—, a competent person, is hereby appointed superintendent of work with compensation at the rate of — dollars per diem for days actually spent in performance of duty under this appointment.

The foregoing resolution was, on the — day of —, 190—, passed by the board of supervisors of the county of —, State of California.

Attest. —

Clerk of Board of Supervisors of said county of —.

By —

(Adding if the fact so be)

Deputy Clerk.

The principal and interest of the bonds representing the cost of work done under the provisions of this act, shall be payable in gold coin of the United States of America, and the board of supervisors is authorized to determine the time, not to exceed twenty years, in which bonds issued to represent the cost of the work shall be paid, and to determine the rate, not to exceed seven per cent per annum of the interest to be paid thereon, which interest shall be payable semi-annually, and to make such bonds in all respects as indicated by the form therefor, in this act hereafter provided.

Publication of resolution.

§ 4. Such resolution of intention shall be filed, and be published by at least two insertions in the newspaper therein designated, which shall be a newspaper published and circulated in the county, or, if there be no such newspaper, then in any newspaper designated by said board of supervisors in such resolution. Printed copies of such resolution, headed "Notice of Road District Improvement," such heading to be in letters not less than one inch in length, shall be, by the superintendent of work, posted along the line of the work described in said resolution, at not more than one hundred feet in distance apart, but not less than three in all.

Affidavits in proof of such publication and posting shall be filed with the clerk of the board of supervisors. When, before the day of the hearing specified in the resolution of intention, twenty days have elapsed since the posting and the first publication (they need not be simultaneous) of the resolution of intention, the board of supervisors shall have acquired power to proceed with such hearing and to take all other action in the proceeding as in this act authorized.

The determination of the board of supervisors to proceed with such hearing, whether evidenced by an express declaration or by its proceedings to make other determinations at such hearing shall be presumptive evidence, at the least, of the existence of all the facts upon which the power of the board to proceed depends, except such as are required to appear of the record in the proceeding, and except, also, in so far as such presumption is rebutted by the record in the proceeding.

Objections to work.

§ 5. At any time before the day in the resolution of intention specified for ordering the work and the hearing of the matter, any

owner of land within the boundaries of the district as set forth in said resolution, may, severally or with other such owners, file with the clerk of the board of supervisors written objection to the ordering of the work, as an entirety and not merely to some part thereof, as described in the resolution of intention.

If upon said hearing it appears that a majority of the owners of land within the district, as set forth in the resolution of intention, have so in writing made objection going to the entirety of the work described in the resolution of intention and to the ordering of the same, the board of supervisors shall, by a resolution, to be entered in its minutes, so find; and thereupon such board shall have no power to proceed further under said resolution of intention, or to pass any resolution of intention for doing the same work, during a period of one year, next after the time of such finding; and the accrued costs of the proceedings shall be a charge upon the county. But if the fact be that a majority of the owners of land lying within the district, as set forth in said resolution of intention, have not so in writing made objection going to the ordering of the work, as an entirety, the board of supervisors shall so find, and thereupon proceed with the hearing; but such finding need not then be in writing and may, for the purpose of proceeding with the hearing, be a mere announcement of the board, to be noted in the minutes by the clerk.

At the conclusion of the hearing, however, the said finding shall, severally or with other determinations of the board, be made in writing to be filed and entered upon the minutes of the board.

Owners of land within the meaning of this section are those and those only, who appear to be such upon the records in the recorder's office of the county in which the district is situated, on the day before the day for said hearing, and an executor or administrator shall be deemed representative of his decedent, and a trustee of an express trust in land other than as security for the payment of money, of the land held in such trust, and a trustee in bankruptcy, of the bankrupt.

Next after in order of hearing, the board shall proceed to hear such objections as may be made to the grades specified in the specifications.

Thereafter, in the order of the hearing shall be heard such objections as shall be made to the boundaries of the district as set forth in the resolution of intention. Objection to the grades or to the boundaries of the district may be made by an owner of land lying within the district upon the hearing without any written statement of the same.

The hearing may be continued from time to time by the board of supervisors by an order to be entered in the minutes of the board.

Declaration of board to order work. Boundaries of district. Grades.

§6. Unless the power to proceed shall have ceased, as hereinbefore provided, the board of supervisors shall in conclusion of the aforementioned hearing, and as a sufficient determination of all questions arising thereat, by resolution or resolutions to be entered upon its

minutes, declare its finding that a majority of the owners of land within the district, described in the resolution of intention have not before the day of the hearing filed written objection, going to the ordering of the work to be done, and determining the boundaries of the district, and the grades thereon. If no changes be made in the boundaries of the district as the same are set forth in the resolution of intention, it shall be sufficient to state that the boundaries of the district are those set forth in the resolution of intention, but if any change of such boundaries is made, the boundaries of the district, as finally determined, shall be fully set forth.

If no change be made as to the grades, as set forth in the specifications on file, it shall be sufficient to state that the grades of the same, as finally determined, are those set forth in such specifications. In either case, the boundaries of the district so determined shall be the boundaries of the district for all purposes of the proceeding and until any bonds to be issued for the cost of the work shall have been fully paid and discharged; and the grades so determined shall be the grades of the district for all the purposes of the proceeding and the "official grade" within the meaning of section 1 of this act; provided, however, that the boundaries of the district, as the same are set forth in the resolution of intention, shall not be so changed as to include within the district any territory not within its boundaries as set forth in that resolution, nor so that the place or locality of any work described in such resolution of intention shall be excluded from the boundaries of the district as so finally determined.

In like manner the board of supervisors may order the work to be done, and if it so do, shall fix a time for receiving proposals or bids for doing the work, and direct the clerk to give notice accordingly, inviting sealed proposals or bids. Such notice shall include a statement that the work is to be done "under the provisions of the Road District Improvement Act of 1907, and according to the specifications on file therefor, except in so far as the grades specified therein shall have been fixed otherwise by the board of supervisors in conclusion of the hearing in said act provided; to which said act, to the resolution of intention and all proceedings had thereunder the attention of bidders is hereby directed, and by this reference made part of this notice."

Publication of notice. Bids. Awards. Bonds.

§ 7. The notice inviting sealed proposals or bids shall be published by at least two insertions in the newspaper designated in the resolution of intention, and (not necessarily simultaneously) a copy or copies of the same be posted and kept posted for five days, at or near the chamber door of the board of supervisors. All proposals or bids shall be accompanied by a check, payable to the order of the presiding officer of the board of supervisors, certified by a responsible bank for an amount not less than ten per cent of the aggregate of the proposal or bid, or by a bond for said amount running to the presiding officer of the board of supervisors, signed by the bidder, with two sureties qualifying each in said amount over and above all statutory exemptions before an officer competent to administer an oath.

Said proposals or bids shall be delivered to the clerk of said board, and said board shall, in open session, examine and declare the same, but no proposal or bid shall be considered unless accompanied by said check of such bond in terms satisfactory to the board. The board may reject any and all proposals or bids should it deem this for the public good, and shall reject all proposals or bids other than the lowest regular proposal or bid of any responsible bidder, and may award the contract for said work to the lowest responsible bidder at the price named in his bid.

A notice of such award, attested by the clerk of the board of supervisors shall be published and posted for five days in the same manner as hereinbefore provided with respect to the notice inviting proposals or bids.

The check or bonds accompanying such accepted proposals or bids shall be kept by the clerk of said board until the contract for doing said work, as hereinafter provided, has been entered into. If said bidder fails, neglects or refuses to enter into the contract for said work, as hereinafter provided, then the certified check accompanying his bid, and the amount therein mentioned shall be declared forfeited to the county, and may be collected by it and paid into its road fund, and any bond forfeited may be prosecuted, and the amount thereof collected and paid into said fund.

Before being entitled to a contract the bidder to whom the award thereof has been made must advance and pay to the clerk of the board of supervisors, for payment by him the costs and expenses of publishing and posting resolutions, notices and orders required, under this act to be made, which have been made, given, posted or published in the proceeding.

When bidder fails to enter into contract, procedure.

§ 8. If for fifteen days after being awarded the contract, the bidder to whom the contract was awarded fails, neglects or refuses to enter into the contract, the board of supervisors may direct the clerk of the board to give notice as in the first instance, inviting sealed proposals or bids, and thereupon shall by bidding, award, and other proceedings as in the first instance; and as in the case of the default of a first awardee, so, also, in that of a second.

Terms of contract. Bond of contractor.

§ 9. The presiding officer of the board of supervisors is hereby authorized, in the name of the county to execute the contract with the awardee of the same, and to receive and approve all bonds by this act required on the part of such awardee, and shall, by the terms of said contract, fix the time for the beginning of the work, which shall not be more than twenty days from the date thereof, and the contract shall provide that the work be prosecuted with diligence until completed, and a time for such completion shall be in the contract fixed, but such time of completion may be extended from time to time by the board of supervisors, in its discretion, and by resolution, which shall be entered by the clerk in the minutes of said board, a copy of

which shall be by said clerk indorsed upon or annexed to the contract.

Before entering upon such contract, a bond shall be executed and filed, running to the county, in an amount not less than one-half of the contract price of the work, signed by the contractor and two or more sureties, who shall aggregately, unless surety companies, qualify before an officer entitled to administer the oath in a sum equal to the amount of the bond, each surety in the amount for which he becomes surety. Such bond shall be conditioned for the faithful execution of the contract by the party contracting to do the work, and the payment by him for all labor and materials furnished for or in the doing of the work. The form and sufficiency of said bond shall be passed upon by some member of the board of supervisors, and such bond shall inure as well to the benefit of any and all persons furnishing labor or materials for the work as to the county.

Said contract shall undertake on behalf of the county that the board of supervisors will, upon the fulfillment and performance of the contract on the part of the contractor, and under the provisions of the "Road District Improvement Act of 1907," take all steps, in or by said act authorized to be taken, to effect the issuing by the county treasurer of the bonds in said act authorized to be issued, and provide a fund for the payment of the same, as in or by said act prescribed; and it shall be in such contract stated that in no case shall the county be liable under the contract, nor any officer thereof be thereunder holden except for the discharge of official duty under the law.

When work is completed declaration to be filed. Notice of hearing whether work shall be accepted. Hearing.

§ 10. As soon as may be done in good faith, there shall be filed with the clerk of the board of supervisors a declaration that the work has been completed according to the contract, together with an itemized statement of all the incidental costs and expenses of the work and the proceeding inclusive of the estimated cost of publishing the notice of final hearing hereinafter mentioned.

The aggregate of such items shall be stated, and, also, the amount due as of the contract price; and also the gross sum for a bond issue representing the entire amount thereof, as claimed by the contractor. The said declaration and statements shall be signed and verified by the superintendent of work, and by the contractor or some person cognizant of the facts, signing on behalf of the contractor, and stating why he, instead of the contractor, so signs and verifies. Either signer may except from his signature and verification any amount or item to which he does not assent.

The presiding officer of the board of supervisors is hereby authorized to fix a time and give notice for a hearing for the purpose of determining whether the work shall be accepted as being completed according to the contract, and for determining the aggregate amounts for which bonds shall be issued representing the total cost of the work, and the amount of the incidental costs and expenses of the work, and the proceedings which is to be charged to and paid by the contractor.

Such hearing shall be known as the final hearing. The notice of such hearing may, in form, and shall, in substance be (filling the blanks) as follows:

Notice of Final Hearing.
In the Matter of Road District
Improvement No. —

Notice is hereby given that a final hearing of the above named matter will be had at the hour of — M. on the — day of —, 190—, at the chamber of the board of supervisors of the county of —, state of California, for the purpose of determining whether the work done under the contract made with — under Resolution of Intention No. — in Road Improvement District No. — of the county of — shall be accepted as being performed according to the contract, and for determining the aggregate amount for which bonds shall issue representing the cost of such work, inclusive of the incidental costs and expenses of the work and the proceeding, of which a statement has been filed with the clerk of said board of supervisors of the county of —, to which statement the attention of all persons interested is hereby directed.

— of the Board of Supervisors
of the county of —

Attest:—

Clerk of said Board of Supervisors.
By —

Deputy Clerk.

(If so the fact be.)

Such notice shall be signed by the presiding officer of the board of supervisors and attested by the clerk of the board of supervisors and published by at least two insertions in the newspaper designated in the resolution of intention, and copy or copies thereof, posted and kept posted for two days at or near the chamber door of the board of supervisors, the first day of such publication and that of such posting (they need not be simultaneous) to be not less than five days before the day in said notice specified for the hearing.

Proof of such publication shall be made by affidavit or affidavits, and the same shall be filed. If a quorum be not present at the time in the notice specified for the hearing, a member or members of the board then present may continue the hearing from day to day, and at all stages thereof the hearing may, by resolution, to be entered in the minutes, be continued from time to time.

At any time before the day in said notice specified for the hearing, any owner of property not exempt from taxation within the district, as finally established, may solely or with any other such owner or owners, file written objection to the acceptance of the work on the ground that the work has not been completed or done according to the contract, specifying in ordinary language the particulars in which the contract has not been so completed or done.

Any person interested in the proceeding, as of the interest of the contractor, shall be presumed to take issue with such objection, and be heard accordingly.

terest coupon shall be in form as said treasurer may devise, subject to the provisions of this act, and the determinations made by the board of supervisors, and their signatures by him shall be sufficient. Said bonds shall be delivered by said treasurer to said contractor or to his order, assignee or lawful representative.

The board of supervisors is hereby vested with power to determine the number of years, not to exceed twenty, within which the aggregate principal of bonds to be issued under this act shall be paid and discharged, and to fix the rate of interest, not to exceed seven per cent per annum, to be paid thereon, and it shall be a sufficient determination and fixing of the same to set forth in the resolution of intention that bonds will issue for the work in any terms that will fairly indicate such time and such rate and the fractional part of the principal to be paid each year; which part shall be the same for each of the years covered by the bond issue.

The interest payments on said bonds shall be payable semi-annually on the second days of January and July, and interest and principal at the office of the county treasurer, and as prescribed aforesaid for said bonds, in gold coin of the United States of America, and the whole or any part of such bonds redeemed upon notice as indicated in the form for said bonds hereinbefore set forth; but it shall not be necessary either in the resolution of intention or otherwise to set forth or determine the days of the month on which payments of interest are to be made, nor that payments shall be made in such gold coin, nor that payments shall be at such treasurer's office, nor that such bonds are redeemable in the manner indicated in such form for said bonds hereinbefore set forth; but all persons are charged with notice of the contents of this section, especially in the aforesaid particulars.

Special bond fund to be constituted. Special tax. Transfer from general road fund.

§ 13. A special fund to be named "Road District Improvement Fund No. ——" (the number to be that of the district) for the discharge and payment of such bonds and the interest thereon shall be constituted as follows, to wit: There shall be each year, at the time of the levy of the general levy of state and county taxes, be levied against and upon all the land within said Road Improvement District No. — (being the district established and as bounded in the order ordering the work to be done) a special assessment tax in an amount clearly sufficient together with any moneys which are or may be in said fund, to pay all the principal which has or will become due and all interest which has or will become payable, on said bonds, before the proceeds of another tax levy at the time of the general tax levy for state and county purposes can be made available for the payment of such bonds.

The board of supervisors shall, from the general road funds of the county transfer to said "Road District Improvement Fund No. —," such amount as, in the judgment of said board, is a fair proportion of the general road fund of the supervisorial district in which said Road Improvement District No. — is situated.

In any event it shall be the duty of the board of supervisors to levy a sufficient special assessment tax upon all the land within said Road Improvement District No. —, to maintain such Road District Improvement Fund No. — sufficient to pay the principal and interest of said bonds as the same shall become payable. And the board of supervisors is hereby vested with power to do all and singular the things which in this section aforesaid it is declared shall be done.

Powers of supervisors. Superintendent of work. Other employees. Same person may hold several positions.

§ 14. The board of supervisors is hereby vested with power as follows, to wit:

1. To appoint at any stage of the proceeding before calling for proposals or bids any competent person, to be designated "engineer of work," for the purpose of doing and furnishing all the civil engineering work or services, surveying, and similar work and services necessary to the proper doing of the work. His compensation or at least the rate or some basis for computing the same shall be fixed and stated in the order of his appointment, which said order shall be entered in the minutes of the board.

2. To appoint, in and as a part of the resolution of intention, any competent person to be designated "superintendent of work," whose duty it shall be to perform the services for him in this act prescribed or indicated, and for the general actual supervision of the work. His compensation shall be fixed at the time and in the resolution of his appointment at a per diem not to exceed five dollars for all time actually devoted to the work.

3. To designate any competent person for the purpose of preparing and furnishing the specifications required by section 2 of this act, and with such designation to fix his compensation, or some basis for computing the same.

4. To appoint and designate other competent persons in the places respectively of the persons so originally appointed, with compensation, so far as practicable, proportionately the same as fixed for the original appointee.

The same person may, successively or otherwise, be appointed to prepare specifications, to be superintendent of work and to be engineer of work, and these or any of them conjunctively with the aggregate of the compensation provided for each. But no part of such or any compensation shall be a charge against the county or any officer thereof, except that for furnishing specifications and posting the resolution of intention, the charge shall be against the county if the proceeding cease or be abandoned before the award of the contract.

Costs of proceeding, by whom to be paid.

§ 15. All the costs and expenses of the proceeding, inclusive especially of the compensation of the person appointed to furnish the specifications, of the superintendent of work, of the engineer of work, of the cost of all publications under this act required to be made, shall be

chargeable to and paid by the contractor, and they shall have been paid before delivery of the bonds shall be made by the county treasurer, provided, however, that the county treasurer may make delivery of such bonds, if there be deposited with him, subject to the order of the board of supervisors, money to the amount of the costs and expenses chargeable to the contractor as the same is stated in the attested order of the board of supervisors, provided for in section 12 of this act. The contractor and all persons claiming under him any interest in said bonds, whether of ownership, lien or otherwise, shall be deemed to have notice of the contents of this section.

Place of publication may be changed, how.

§ 16. If publication in the newspaper designated in the resolution of intention become impossible for the reason that such newspaper has ceased to be published or for any like reason, which renders publication therein impossible, the board of supervisors may, by a resolution to be entered in its minutes, and stating the facts, designate another newspaper for each required publication as occasion therefor arises.

All papers to be filed with county clerk.

§ 17. All papers in a proceeding under this act (save such as thereunder may be returnable to owners) shall be filed with the clerk of the board of supervisors, and by him kept together in a package appropriately labeled. Whenever in this act the term "clerk of the board of supervisors" is employed, it shall be deemed to include one who is, ex officio, such, and it shall be immaterial that he designate himself as county clerk where the county clerk is ex officio clerk of the board of supervisors, nor shall it be material that his act be by deputy.

Name of act.

§ 18. This act shall be known as the "Road District Improvement Act of 1907," and by such designation shall be sufficiently identified in any proceeding thereunder, and whenever in the resolution of intention it shall be set forth or recited that the proceeding is under the "Road District Improvement Act of 1907," this act shall be construed as the paramount statute for such proceeding, independently of, and alternatively for, other statutes for the improvement of public ways not within incorporated cities and towns.

ACT 1466.

An act to allow unincorporated towns and villages to establish, equip and maintain systems of street lights on public highways; to provide for the formation, government and operation of highway lighting districts; the calling and holding of elections in such districts; the assessment, collection, custody and disbursement of taxes therein; and the creation of ex-officio boards of supervisors.

[Approved March 20, 1909. Stats. 1909, p. 551.]

Certain words defined.

§ 1. The words and phrases used in this act, shall, for the purposes of this act, unless the same be contrary to or inconsistent with the context, be construed as follows:

(1) "Public highways," shall include any highway, county road, state road, public street, avenue, alley, park, parkway, driveway, or public place, in any county, or unincorporated town or village dedicated to the public and generally used for traffic by the public.

(2) "Street lights," or "street illumination," shall include any system of illumination by means of street lights using gas, electricity, or other means of illuminant deemed feasible; such lights to be set upon poles, or suspended in the air.

Street lights.

§ 2. Any unincorporated town or village of this state may establish a highway lighting district for the purpose of installing and maintaining a system of street lights on public highways, for the better protection of its residents, in accordance with the provisions of this act.

Petition for lighting district.

§ 3. Upon the application, by petition, of twenty-five or more, taxpayers and residents of said town or village, to the board of supervisors of the county in which the said town or village is situated, praying for the formation of a public highway lighting district, and setting forth the boundaries of the said proposed district, the said board of supervisors must, within ten days after receiving said petition, by resolution, order that an election be held in the said proposed district for the determination of the question, and shall appoint three qualified electors thereof to conduct said election, which must be held within forty days from the date of the order.

Election to determine proposition.

§ 4. Said election shall be called by posting notice thereof in three of the most public places in said proposed lighting district, and by publication in a daily or weekly paper therein, if there be one, at least once a week for not less than fifteen days. Said notices must specify the time, place and purposes of said election, give the boundaries of the said proposed lighting district; and the hours during which the polls will be kept open; provided that in districts with a population of ten thousand or over, the polls must be opened at 8 o'clock A. M., and kept open until 7 o'clock P. M., and in districts where the population is less than ten thousand, the polls must not be opened before 1 o'clock P. M., and must be kept open not less than six hours.

Conduct of election.

§ 5. Said election shall be conducted in accordance with the general election laws of this state, where applicable, without reference to form of ballot or manner of voting, except that the ballots shall contain the words, "For Lighting District," and the voter shall write or print after said words on his ballot, the word "Yes" or the word "No."

Who entitled to vote.

§ 6. Every qualified elector, resident within the proposed district for the period requisite to enable him to vote at a general election, shall be entitled to vote at the election above provided for.

Canvass of vote.

§ 7. It shall be the duty of the election officers to publicly canvass the votes immediately after the close of the election, and to report the result of said election to the board of supervisors within five days subsequent to the holding thereof.

Duty of supervisors.

§ 8. If a majority of the votes cast at said election shall be in favor of a lighting district, the said board of supervisors may, by resolution, establish said lighting district.

Same.

§ 9. If a majority of the votes cast shall be against the lighting district, the board of supervisors, shall by order, so declare; no other proceedings shall be taken in relation thereto until the expiration of one year from the date of presentation of the petition.

Evidence of validity.

§ 10. The fact of the presentation of the petition, and the order establishing the lighting district, shall be entered in the minutes of the board of supervisors and shall be conclusive evidence of the due presentation of a proper petition, and that each of the petitioners was, at the time of signature and presentation of the petition, a taxpayer and resident of the proposed district, and of the fact and regularity of all prior proceedings of every kind and nature provided for by this act, and of the existence and validity of the district.

Supervisors of lighting districts, who are. Duties of supervisors.

§ 11. The board of supervisors of the county wherein lighting districts have been established under the provisions of this act, shall be and they are hereby designated as and empowered to act as ex officio the board of supervisors of each and all of such lighting districts which may hereafter be established within such county under the provisions of this act; serving without compensation; and said boards of supervisors shall be authorized and they are hereby empowered, and it shall be their duty:

First. To make all rules, regulations and laws necessary for the administration, operation and maintenance of the lighting districts situated within their county.

Second. To supervise, and plan a system of street illumination for any and all lighting districts within their county, and to determine and decide upon the kind and manner of illuminant most feasible for the district.

Third. To indicate the placing and installation of the lights and any and all subsequent additional lights.

Fourth. To receive bids, award and make contracts with lighting companies to the very best advantage of the district, for the installation and maintenance of poles, wires, lights and other accessories; and for the supplying of electric current, gas or such other illuminant as may be determined upon; and for any and all other things that may be necessary to carry out the full meaning and provisions of this act.

Fifth. To determine the number of employees, if any, necessary to properly care for and maintain the lights; to prescribe their duties and fix their compensation, which said employees shall hold their positions at the pleasure of the board.

Sixth. Upon the application, by petition, of twenty-five or more taxpayers and residents of such lighting district, asking for the installation and maintenance of additional lights, which said petition must be filed on or before the first day of September in any year; to immediately estimate the cost of installing and maintaining such additional lights, and to include in the tax levy for the ensuing fiscal year a tax upon the taxable property within such lighting district, at the equalized value thereof for that year, sufficient to pay the cost of installing and maintaining such additional lights; after which to proceed with the installation of such additional lights.

Seventh. To designate the hours for lighting such districts.

Eighth. To perform any and all other acts and things necessary or proper to carry out the provisions of this act.

Ninth. To, within ten days after the establishment of such district, proceed with carrying out the provisions of this act by advertising for bids for installing, caring for and maintaining the lights determined upon; and for supplying the district with all of the gas, electricity or such other illuminant as has been determined upon, necessary for operating and maintaining any and all of the lights which have been already installed or which are to be installed within such district. The contract to be awarded to the lowest responsible bidder; provided however, that the rates to be paid therefor must not exceed in any event the rates paid at that time by said county for highway lighting in other portions of said county. The rates to be paid must not be fixed for a term exceeding five years, and the board of supervisors must reserve the right to abrogate such contract whenever gas or electric current is offered to be supplied at two-thirds of such fixed contract price.

Prior light, maintenance.

§ 12. If prior to the formation of a lighting district any lights have been maintained, by public subscription or paid for out of the district road funds, within any territory which subsequently forms itself into a lighting district under the provisions of this act; at the time of the establishment of such lighting district, or else at the time of expiration of any then existing contract for the maintenance of such lights; such lights and the future cost of maintaining and operating them shall be included in the estimate of the board of supervisors and shall thenceforth be maintained as a part of the lighting system of such lighting district.

Authority to erect poles.

§ 13. In granting authority to lay down pipes or to erect poles and string wires, and in contracting for gas or electric current, the board of supervisors must impose such restrictions and conditions, and provide for such locations of the various wires and lights, so as to work the least possible public or private inconvenience.

Estimate for tax levy.

§ 14. On or before the first day of September in each and every year, the board of supervisors of any county wherein a lighting district has been established, shall make an estimate of the cost of conducting and maintaining such lighting district for the ensuing fiscal year, together with the cost of installing and maintaining such additional lights as may have already been petitioned for by the residents of such lighting districts, and for the cost of any other things which may be necessary for carrying out the purposes of this act.

Tax levy.

§ 15. When such estimate shall have been made, the board of supervisors of any county wherein a lighting district has been established, must, at the time of levying county taxes, levy a special tax upon all of the taxable property within the limits of such lighting district at the equalized value thereof, sufficient in amount to maintain the said lighting system, and to install any additional lights, or for any or all of the purposes of this act.

Disposition of revenue.

§ 16. The revenue derived from said tax, together with all other moneys acquired in whatsoever manner by the lighting district, shall be paid into the county treasury to the credit of the lighting fund of the district wherein said tax was collected, subject only to the order of the board of supervisors of said district, and to be by them expended only for and on behalf of the district wherein such money was collected.

Designation of district.

§ 17. Every lighting district formed or established under the provisions of this act, must be designated by the name and under the style of — lighting district, (using the name of the district), of — county, (using the name of the county in which such district is situated), and in that name the board of supervisors may make and award contracts, and may sue and be sued.

Dissolution of district. Outstanding indebtedness.

§ 18. The district may at any time be dissolved upon the vote of two-thirds of the qualified electors thereof, at an election called by the board of supervisors, upon the question of dissolution. Upon a petition signed by fifty or more property owners and residents of such lighting district, asking for the dissolution of said district, the board of supervisors shall within thirty days after receiving said petition, by resolution, order that an election be held in the said district, for the deter-

mination of the question, and appoint three qualified electors thereof to conduct said election. Such election shall be called and conducted in the same manner as other elections of the district. Upon such dissolution, any property which may have been acquired by such lighting district shall vest in any incorporated town or city that may at such time be in occupation of a considerable portion of the territory of such lighting district; and if there be no such incorporated town or city, then such property shall be vested in the board of supervisors of the county wherein such lighting district is situated until the formation of such incorporated town or city; provided, however, that if at the time of the election to dissolve such district there be any outstanding indebtedness of such district, then, in such event, the vote to dissolve such district shall dissolve the same for all purposes excepting only the levy and collection of taxes for the payment of such outstanding indebtedness; and from the time such district is thus dissolved until such indebtedness is fully paid, satisfied and discharged, the legislative authority of such incorporated town or city, or the board of supervisors, if there be no such incorporated town or city, is hereby constituted ex officio the board of supervisors of such district. And it is hereby made obligatory upon such board to levy such taxes and perform such other acts as may be necessary in order to raise money for the payment of such indebtedness, as herein provided.

§ 19. All acts or parts of acts in conflict with this act are hereby repealed.

§ 20. This act shall take effect immediately.

ACT 1467.

An act authorizing the construction, acquisition, maintenance and control of a system of state highways in the state of California; specifying the work, fixing the payments to be made by counties for moneys expended therein; providing for the issuance and sale of state bonds to create a fund for the construction and acquisition of such system; creating a sinking fund for the payment of said bonds; and providing for the submission of this act to a vote of the people. [Approved March 22, 1909. Stats. 1909, p. 647.]

This act provided for the submission to the people of an issue of \$18,000,000 in bonds for the construction of a state system of highways.

ACT 1468.

An act to provide for the protection and preservation of shade and ornamental trees growing and to be grown upon the roads, highways, grounds and property within the state of California; and for the planting, care, protection and preservation of shade and ornamental trees, hedges, lawns, shrubs and flowers growing and to be grown in and upon such roads, highways, grounds and property; and to create county boards of forestry for such purposes; and to prescribe the duties and powers of such boards; and to authorize

such boards to appoint county foresters; and to prescribe the duties and fix the compensation of county forester, and to empower such boards to enforce all laws and adopt and enforce any and all lawful and reasonable rules for the protection, planting, regulation, preservation, care and control of such shade and ornamental trees, hedges, laws, shrubs and flowers.

[Approved April 28, 1909. Stats. 1909, p. 1129.]

§ 1. The board of supervisors in each and every county or city and county of the state of California may, in its discretion, appoint a county board of forestry, who shall serve without compensation, and who shall have exclusive charge and control of all shade and ornamental trees, hedges, lawns, shrubs and flowers growing or to be grown upon the public roads, highways, grounds and property within its respective county.

§ 2. Whenever the board of supervisors of any county or city and county in this state shall, by resolution or ordinance, elect to avail itself of the provisions of this act, such board shall, within two months thereafter, appoint five suitable and competent persons, one from each supervisorial district of such county or city and county, as a county board of forestry in and for such county, who shall serve as such without compensation.

§ 3. The term of office of such county board of forestry shall be four years; provided, however, that the persons first appointed shall so classify themselves by lot that two of their number shall retire from office at the end of two years, two at the end of three years and one at the end of four years. If any vacancy occurs in the office, such vacancy shall be filled, for the unexpired term, by the board of supervisors.

§ 4. Within ten days after notice of their appointment, the members of said county board of forestry shall organize by the election of one of their members as chairman and adopt suitable rules for their government.

§ 5. When organized, said county board of forestry shall appoint a suitable and competent person as county forester to serve as such during the pleasure of the board, prescribe his duties and fix his compensation, which, however, shall not exceed one hundred and fifty dollars per month.

§ 6. Such forester, when appointed, shall execute a bond to said board, in the sum of \$1,000, for the faithful performance of his duties. He shall act as its secretary and perform such other duties as said board shall prescribe. Said forester shall have power and it shall be his duty to enforce the provisions of this act and all lawful orders of said board and he shall be and hereby is vested with all the powers of a peace officer to make arrests for the violation of any of the provisions of this act.

§ 7. Every county board of forestry appointed under the provisions of this act shall, within their respective counties, have exclusive power over

and jurisdiction to decide upon the variety, kind and character of trees, hedges and shrubs that shall be planted upon said roads, highways, grounds and property; and to determine all questions respecting the pruning, cutting and removal of any trees, hedges and shrubs now growing and to grow thereon and the necessity therefor and the extent of and the manner in which said work shall be done; and to enforce, carry out and effectuate the provisions of this act; provided, however, that said board, in the exercise of its powers and the performance of its duties hereunder, shall not interfere with the jurisdiction of the board of supervisors over the roads, highways, grounds and property in the improvement, care and general control thereof.

§ 8. It shall be unlawful for any person or corporation (except said county board of forestry) in any county or city and county where a county board of forestry has been created and appointed under the provisions of this act, to trim, prune, cut, deface, destroy or remove any shade or ornamental tree, hedge or shrub growing or to grow upon any such road, highway, ground or property or to paint, place, attach to or put upon any such trees, hedges or shrubs any sign, notice, advertisement or advertising device without the consent in writing of said board first obtained, or to plant any tree, hedge or shrub on any such road, highway, ground or property without such written consent.

§ 9. Every person who shall violate any of the provisions of section 5 of this act, shall be guilty of a misdemeanor.

§ 10. All moneys received as penalties for the violation of the provisions of this act, shall be paid into the county treasury to the credit of the county board of forestry fund, which fund is hereby created, and the moneys thereof hereby appropriated for the expenses of said board in the carrying out of provisions of this act and the policy and purposes herein provided.

§ 11. Boards of supervisors, whenever the provisions of this act are availed of, shall appropriate money for the use of said county board of forestry sufficient to pay the compensation of said county forester and for the necessary expenses of said county board of forestry.

§ 12. All acts or parts of acts inconsistent with the provisions of this act are hereby repealed.

§ 13. This act shall take effect immediately.

HOGS.

General acts relating to hogs running at large were repealed by the estray law of 1897, p. 198. For acts relating to particular localities, see particular title.

**TITLE 209.
HOLIDAYS.****ACT 1469.**

An act authorizing boards of supervisors or other governing bodies of municipalities to declare holidays.

[Approved March 23, 1901. Stats. 1901, p. 658.]

§ 1. The board of supervisors or other governing body of any county, town, city, or city and county, may declare the day on which a primary or other election is held in such municipality to be a holiday therein.

ACT 1470.

An act declaring February 12, the birthday of Abraham Lincoln, a legal holiday and providing for a half-day session in the public schools on such holiday, and for certain exercises in the public schools.

[Approved April 13, 1909. Stats. 1909, p. 861.]

Lincoln day.

§ 1. February 12th, the birthday of Abraham Lincoln, is hereby declared a legal holiday, provided, however, that all the public schools throughout the state shall hold sessions in the forenoon of that day in order to allow the customary exercises in memory of Lincoln; and provided further, that when February 12th falls on Sunday, then Monday following shall be a legal holiday and shall be so observed; and provided still further, that when February 12th falls on Saturday such exercises in the public schools shall take place on the Friday afternoon preceding.

Compare Act 1471.

ACT 1471.

An act declaring Friday, February twelfth, 1909, the 100th birthday of Abraham Lincoln, a legal holiday and providing for a half-day session of the public schools for that day.

[Approved January 20, 1909. Stats. 1909, p. 2.]

§ 1. Friday, February twelfth, 1909, the 100th anniversary of the birth of Abraham Lincoln, is hereby declared a legal holiday, provided, however, that all public schools throughout the state shall hold sessions in the forenoon of that day in order to allow the customary exercises in memory of the martyred president.

§ 2. This act shall take effect immediately.

Compare Act 1470.

**TITLE 210.
HOLLISTER.****ACT 1474.**

Incorporating. [Stats. 1873-74, p. 675.]

Superseded by incorporating under statute of 1888, in 1901.

TITLE 211.**HOME OF ADULT BLIND.****ACT 1479.**

Appropriating money for the establishment and management of the industrial home of mechanical trades for the adult blind. [Stats. 1885, p. 18.]

Superseded 1887, p. 160, c. OXLVIII.

ACT 1480.

Establishing an industrial home of mechanical trades for the adult blind, and creating a board of directors for the government thereof. [Stats. 1887, p. 160.]

Amended 1889, p. 160.

Codified by §§ 2207-2207k of Political Code.

TITLE 212.**HOMESTEADS.****ACT 1485.**

In relation to homesteads. [Stats. 1867-68, p. 116.]

Superseded by Civil Code §§ 1237-1269.

Citations. Cal. 46/266; 47/80; 71/508.

ACT 1486.

Extending the privileges of the homestead law to certain persons. [Stats. 1860, p. 87.]

Citations. Cal. 102/497, 500; 119/372.

This act extended the law to unmarried men and women and to widows and widowers. The homestead acts are superseded by Civil Code, § 1237 et seq.

ACT 1487.

Alienating or incumbering. [Stats. 1873-74, p. 582.]

Codified by §§ 1269a-1269e of Civil Code.

Citations. Cal. 108/220; 114/670, 671, 672, 673, 676; 126/25.

It provided for the alienation of the homestead in case of the insanity of either husband or wife.

TITLE 213.**HOMESTEAD CORPORATIONS.****ACT 1492.**

To authorize formation of homestead corporations. [Stats. 1861, p. 567.]

Repealed. See § 288, Civil Code. Amended 1867-68, p. 539; 1869-70, p. 474. Supp. 1868-64, p. 492; 1873-74, p. 525. See supplementary act of 1873-74, p. 525, which appears in full in Civil Code, Appendix, p. 810.

Citations. Cal. 131/341.

TITLE 214.**HOMING PIGEONS.****ACT 1497.**

An act for the protection of the Antwerp messenger, or homing-pigeon. [Approved February 26, 1897. Stats. 1897, p. 37.]

Codified by § 598a of Penal Code. See note to § 598a, Penal Code.

TITLE 215.**HOPS.****ACT 1502.**

An act fixing rate of tare on baled hops.

[Approved March 31, 1891. Stats. 1891, p. 452.]

§ 1. There shall be allowed on baled hops a tare at the rate of two per centum of the weight of the bale for the cloth and other material used in baling; that is, the tare shall be at the rate of two pounds per hundred on the weight of the bale.

§ 2. This act shall take effect and be in force from and after its passage.

TITLE 216.**HORNITOS.****ACT 1507.**

Incorporating town of. [Stats. 1869-70, p. 471.]

TITLE 217.**HORTICULTURE.**

See "Agriculture"; "Forestry"; "Viticulture."

ACT 1510.

An act to provide for the proper naming of trees, seeds, plants, and vines, sold, offered, or exposed for sale in this state and providing a penalty for the violation of this act.

[Approved March 3, 1905. Stats. 1905, p. 44.]

§ 1. All trees, seeds, plants and vines, sold, offered or exposed for sale in the state of California shall be properly named as to variety and kind, and any person knowingly selling, trading, or exchanging, or offering or exposing for sale any trees, seeds, plants or vines falsely named as to variety and kind shall be guilty of a misdemeanor, and shall be liable to a fine of not less than ten dollars, nor more than three hundred dollars.

ACT 1511.

An act to provide for an investigation of the nature of the diseases known as pear blight and walnut blight and to prevent, eradicate, and procure a cure for the same and to cause to be prosecuted experimental and research work in the field of viticulture, directing publication of the results of such experiments and investigations, making an appropriation therefor and prescribing the duties of the controller and treasurer in relation thereto.

[Approved March 18, 1905. Stats. 1905, p. 124.]

§ 1. The regents and the president of the University of California are hereby directed to cause to be prosecuted with all possible diligence,

in connection with and in addition to the work heretofore carried on by the agricultural experiment station, experimental and research work in the field of viticulture, including both cultural and industrial processes. They are directed to ascertain the adaptation of the various kinds of vines to the several climatic and soil conditions of the state, with the special reference to those stocks for propagating purposes, resistant to the phylloxera, and to further their adaptability and utility as grafting stocks for producing wine, raisin and table grapes. They are directed to ascertain the best methods of grafting and propagating said stocks and vines together with the most important methods of vinification and preparation, manufacture and application of yeasts in vinification and distillation. They are further directed to report upon the utilization of the by-products of the vineyard and winery, the study and treatment of the vine diseases, and all matters appertaining to the viticultural industry pertinent to the successful conduct of the business and that may be of general public interest, use and profit. They are further directed to publish the result of said experiments and investigations in form of bulletins from time to time, as may seem advisable and not less than two bulletins showing the progress and result of the work, shall be issued in any fiscal year.

And they are further directed to inaugurate an investigation of the cause, nature, and means of suppression or prevention, of the so-called pear blight, a destructive, infectious disease of pear and apple trees. For such investigation said director shall obtain and establish such assistants, equipment, materials, appliances, apparatus and other incidentals as may be necessary to the successful prosecution of the work, within the appropriation specified.

And they are further directed to secure a remedy for the so-called walnut blight. The said regents are hereby authorized to employ an expert and if necessary, to send him abroad to ascertain the cause of this blight and in an endeavor to secure a remedy therefor.

§ 2. There is hereby appropriated for the use of said experiment station, for the purposes set forth in this act, the sum of twenty thousand dollars (\$20,000).

§ 3. All money appropriated under this act shall be paid to the regents of the University of California, and expended under the direction of the director of the agricultural experiment station of said university for the specific purposes herein named.

ACT 1512.

To create and establish a state board of horticulture, and appropriate money for the expenses thereof. [Approved March 13, 1883. Stats. 1883, p. 289.]

Amended 1885, p. 4; 1889, pp. 8. 89. Repealed 1903, p. 524.

See Political Code, §§ 2319-2319j.

ACT 1513.

An act to create a state commission of horticulture, to provide for a state commissioner of horticulture, and prescribe his powers, duties and compensation, and to provide methods, means and penalties for the enforcement of such powers and duties, and appropriating money for the use and support and to pay the expenses thereof, and to repeal chapter sixty-three of the laws of eighteen hundred and eighty-three, chapter seven of the laws of eighteen hundred and eighty-five, chapter eighty-six of the laws of eighteen hundred and eighty-nine, and chapter one hundred and ninety-four of the laws of eighteen hundred and ninety-one.

[Approved March 25, 1903. Stats. 1903, p. 524.]

Amended 1905, p. 496.

Probably codified by §§ 2819-2819j, Political Code. The code commissioners say it is the act of 1888, 289 (Act 1512), that is codified. As that act was repealed in 1908, the act of 1903 (Act 1513) is probably the one referred to.

ACT 1514.

To protect and promote the horticultural interests of the state. [Stats. 1881, p. 86.]

Amended 1889, p. 413; 1891, p. 268. Repealed 1897, p. 244. Amended 1907, p. 112.

ACT 1515.

An act to promote the horticultural interests of the state by providing county boards of horticulture, and repealing the act entitled "An act to protect and promote the horticultural interests of the state," approved March 14, 1881, and certain acts amendatory thereof, approved March 19, 1889, and March 31, 1891.

[Approved March 31, 1897. Stats. 1897, p. 244.]

Amended 1905, p. 297; 1907, p. 112.

Citations. Cal. 188/325.

Codified by §§ 2822-2822e of Political Code.

ACT 1516.

To prevent the spreading of fruit and fruit-tree pests and diseases, and to provide for their extirpation. [Approved March 9, 1885. Stats. 1885, p. 40.]

Superseded 1899, p. 91.

ACT 1517.

For the protection of horticulture, and to prevent the introduction into this state of insects, or diseases or animals injurious to fruit or fruit-trees, vines, bushes, or vegetables, and to provide for a quarantine for the enforcement of this act. [Stats. 1899, p. 91.]

Amended 1903, p. 32.

ACT 1518.

An act prohibiting the sale of any fruit tree or fruit trees of a certain kind, variety or description and the delivery thereafter with the intent to deceive to the purchaser of a fruit tree or fruit trees of a different kind, variety or description, and providing penalties for the violation thereof, and prescribing the time within which prosecutions under this act may be commenced.

[Approved March 15, 1907. Stats. 1907, p. 275.]

§ 1. It shall be unlawful for any person, persons, firm or corporation, acting either as principal or agent, to sell, to any person, persons, firm or corporation any fruit tree or fruit trees representing same to be of a certain kind, variety and description and thereafter to deliver to such purchaser in filling such order and in completing such sale a fruit tree or fruit trees of a different kind, variety or description than the kind, variety or description of such fruit tree or fruit trees so ordered and sold.

§ 2. Any person violating any provisions of this act shall be deemed guilty of a misdemeanor and upon conviction shall be fined in a sum not less than fifty (\$50) dollars, nor more than five hundred (\$500) dollars, or by imprisonment in the county jail for not less than twenty days or more than six months, or by both fine and imprisonment.

§ 3. Prosecutions under this act may be commenced at any time within seven years from the time of the delivery of such fruit tree or fruit trees mentioned in section one.

§ 4. This act shall take effect and be in force from and after its passage.

ACT 1519.

An act providing for the investigation of the nature and means of control of destructive diseases of cultivated plants in those portions of the state not benefited by the Southern California Pathological Laboratory, and making an appropriation therefor.

[Approved April 26, 1909. Stats. 1909, p. 1092.]

Investigation of tree diseases.

§ 1. The regents and the president of the University of California are hereby directed to maintain in connection with the agricultural experiment work of the university in those portions of the state not benefited by the Southern California Pathological Laboratory, a scientific station or laboratory with the necessary equipment for the investigation of the nature and means of control of injurious and destructive diseases of cultivated trees, plants and crops.

Information to growers.

§ 2. They are directed to make or cause to be made investigations of such troubles as pear blight, peach blight, olive knot, apricot failures,
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pear scab, apple diseases, root rot, root knot, diseases of tomatoes, potatoes, asparagus, onions and other vegetables, and such other plant diseases as may be called to their attention. They shall also furnish information and practical demonstrations to the growers of these crops as to the best means of control for such diseases.

Appropriation.

§3. The sum of fifteen thousand dollars is hereby appropriated out of any money in the state treasury not otherwise appropriated to be expended by the regents of the University of California in carrying out the purposes of this act and the state controller is hereby authorized and directed to draw his warrant for the same, payable to the regents of the University of California, and the treasurer of the state is hereby directed to pay such warrant.

TITLE 218. HOSPITALS.

ACT 1522.

Conferring power upon the governing body of municipal corporations of the first class to provide for the erection of a municipal hospital, and to levy a tax therefor. [Approved February 16, 1897. Stats. 1897, p. 9.]

ACT 1523.

An act to provide for the licensing and inspecting of maternity hospitals, lying-in asylums and homes for children; defining the duties of persons conducting the same; and the duties and powers of the county boards of health or county health officers and other health officers in relation thereto, and providing a penalty for the violation of its provisions.

[Approved March 20, 1903. Stats. 1903, p. 317.]

§1. Any person who, without first having obtained a license in writing so to do from the county board of health or county health officers, as hereinafter provided, manages, conducts, establishes or maintains within any county or city and county in this state any maternity hospital or lying-in asylum where females may be received, cared for or treated during pregnancy, or during or after delivery; or manages, conducts, establishes or maintains within any county or city and county in this state any institution, boarding-house, home or other place for the reception or care of children, or keeps, at any such place, any child under the age of twelve years, not his relative, apprentice, or ward, without legal commitment; or neglects, refuses or omits to comply with the provisions of this act, or who violates the provisions of such act, is guilty of a misdemeanor.

§2. For such places within the limits of their respective territorial jurisdictions, the county board of health in all counties or city and county governments, having a county board of health, and in all other

counties or city and county governments, the county health officer shall have power to issue licenses, and every such license must specify the name and residence of the person so undertaking the care of such females or children; and the location within the county or city and county of the place where the same are kept and the number of females or children thereby allowed to be received, boarded or kept therein, and shall be revocable for cause by the said county board of health or county health officer, as the case may be, in any case where the provisions of this act are violated, or in any case where, in the opinion of such county board of health or such county health officer, such hospital, asylum, institution, home, boarding-house or other place is being managed, conducted or maintained without proper regard for the health, comfort or morality of the inmates thereof, or without due regard or proper sanitation or hygiene.

§ 3. Every person so licensed must keep a register, wherein he shall enter the names and addresses of all such females, the names and ages of all such children, and of all children born on the premises, and the names and residences of their parents, so far as is known, and the time of the reception and discharge of such children and the reasons therefor, and also the name and age of every child who is given out, adopted, taken away, or indentured from such place, to or by any person, together with the name and residence of the person so adopting, taking away or indenturing such child; and within forty-eight hours after such child is so given out, taken away or indentured, shall cause a correct copy of the register relating to such child to be sent to the county board of health or county health officer, as the case may be.

§ 4. It shall be lawful for the officers and representatives of such county board of health, or for such county health officers and their representatives, and for all health officers, at all reasonable times, to enter and inspect the premises wherein such females and children are so boarded, received or kept, and to call for and inspect the license and the register and to also to see and visit such children and females.

ACT 1524.

An act to promote the public welfare, by providing for the conveyance, holding and protection of property, and the creation of trusts for the founding, endowment, erection and maintenance within this state of hospitals for the relief of the sick and for training schools for nurses.

[Approved February 19, 1907. Stats. 1907, p. 10.]

§ 1. The provisions of this act shall be liberally construed with a view to effect its objects and promote its purposes; and in the construction thereof, the singular number shall be deemed to include the plural, and the plural shall be deemed to include the singular number, and the masculine gender shall be deemed to include the feminine.

§ 2. Any person desiring in his lifetime to promote the public welfare by founding, endowing and having maintained within this state a hos-

pital for the relief of the sick, and as a training school for nurses, may to that end and for such purpose, by grant in writing, convey to a trustee or any number of trustees named in such grant, and to their successors, any property real or personal, belonging to such person, and situated or being within this state, provided, that if any such person be married and the property be community property, then both husband and wife must join in such grant.

§ 3. The person making such grant may therein designate:

1. The nature, object and purpose of the hospital and school for nurses to be founded, endowed and maintained.

2. The name by which it shall be known.

3. The powers and duties of the trustees, and the manner in which they shall account, and to whom, if accounting be required; but such powers and duties shall not be held to be exclusive of other powers and duties which may be necessary to enable such trustees to fully carry out the objects of such grant.

4. The mode and manner, and by whom, the successors of the trustee or trustees named in the grant are to be appointed.

5. Such rules and regulations for the management of the property conveyed as the grantor may elect to prescribe; but such rules shall, unless the grantor otherwise prescribes, be advisory only, and shall not preclude such trustees from making such changes as new conditions may from time to time require.

§ 4. The trustee or trustees named in such grant, and their successors may in the name of the said hospital and school for nurses, as designated in such grant, receive and hold gifts and donations of real and personal property, sue and defend, in relation to the trust property, and in relation to all matters affecting the said hospital and said school endowed or established by such grant, and such trustees are hereby given, and shall have, the right to exercise corporate powers and privileges, and to that end they may organize and act as a board of trustees, elect such officers of such board as they may deem to be necessary, adopt by-laws, and as such board, and through the officers thereof, they may transact such business, perform such acts and exercise such powers as they in writing may provide may be transacted, performed and exercised by such board. Such board may adopt and use a seal and such seal when attached to any document or writing shall be prima facie evidence that such document or writing was made by and under due authority from such board and from such trustees.

§ 5. The person making such grant, by a provision therein, may elect in relation to the property conveyed and in relation to the erection, maintenance and management of such hospital and school, to perform, during his life, all the duties and exercise all the powers which, by the terms of the grant, are enjoined upon and vested in the trustee therein named, and in such case the powers and duties conferred and imposed by such grant upon said trustees therein named, shall be exercised and performed by the person making such grant, during his life; provided

however, that upon the death of such person such powers and duties shall devolve upon and shall be exercised by the trustees named in the grant, and their successors.

§ 6. Any such grant may be executed, acknowledged and recorded in the same manner as is now provided by law for the execution, acknowledgment and recording of grants of real property.

§ 7. No suit, action or proceeding shall be commenced or maintained by any person to set aside, annul or effect said conveyance or to effect the title to the property conveyed, or the right to the possession, or to the rents, issues and profits thereof, unless the same be commenced within two years after the date of filing such grant for record; nor shall any defense be made to any suit, action or proceeding commenced by the trustees named in said grant or their successors, privies or persons holding under them, which defense involves the legality of said grant, or effects the title to the property thereby conveyed, or the right of possession, or the rents, issues and profits thereof, unless such defense is made in a suit, action or proceeding commenced within two years after such grant shall have been filed for record, and after such filing said property shall be exempt from execution and forced sale.

§ 8. This act shall be in force from and after its passage.

TITLE 219.

HOTELS.

ACT 1528.

An act to regulate the use of illuminating gas.

[Approved March 20, 1903. Stats. 1903, p. 289.]

§ 1. Every hotel-keeper, lodging-house keeper, and innkeeper, or keeper of any place where rooms are let to lodgers in which, or any of which such places illuminating gas is used, who shall turn off, or cause to be turned off at the meter the flow of such illuminating gas, during the time of the use of any such room or rooms, shall be guilty of a misdemeanor; provided, however, that this act shall not apply to any of the persons herein enumerated, when such person or persons shall have connected every exit orifice upon the gas fixtures used in such place or places with a practical and safe automatic gas igniter.

§ 2. This act shall take effect and be in force immediately from and after its passage.

TITLE 220.

HOURS OF LABOR.

Of minors. See tit. "Infancy," post.

ACT 1533.

To limit the hours of labor. [Stats. 1867-68, p. 63.]

Superseded by Political Code, §§ 3244, 3245, and Penal Code, § 651.

ACT 1534.

Limiting the hours of daily services of laborers, workmen, and mechanics employed upon the public works of or work done for the state of California, or any political subdivision thereof, providing for the insertion of certain stipulations in contracts for public works, imposing penalties for violations of the provisions of this act, and providing for the enforcement thereof. [Stats. 1899, p. 149.]

Citations. Cal. 142/104.

Superseded by the following act:

ACT 1535.

An act limiting the hours of daily service of laborers, workmen, and mechanics employed upon the public works of, or work done for, the state of California, or any political subdivision thereof; providing for the insertion of certain stipulations in contracts for public works; imposing penalties for violations of the provisions of this act, and providing for enforcement thereof. [Approved March 23, 1901. Stats. 1901, p. 561.]

This act was probably superseded in part, if not entirely, by the following act:

ACT 1536.

An act limiting the hours of service of laborers, workmen, and mechanics employed upon the public works of, or work done for, the state of California, or of, or for any political subdivision thereof; imposing penalties for violation of the provisions of said act, and providing for the enforcement thereof. [Approved March 10, 1903. Stats. 1903, p. 119.]

Codified by § 658c of Penal Code. See note to § 658c, Penal Code.

TITLE 221.**HOUSE OF CORRECTION.****ACT 1540.**

To provide for commitments to the house of correction. [Stats. 1885, p. 34.]

Superseded 1889, p. 111; 1889, p. 100.

Citations. Cal. 87/88.

This act provided for commitments to houses of correction instead of to county jails in counties where there was a house of correction.

TITLE 222.**HOUSES OF PROSTITUTION.****ACT 1545.**

To suppress houses of ill-fame. [Stats. 1855, p. 76.]

Superseded by Penal Code, §§ 315, 316.

**TITLE 223.
HUMBOLDT BAY.**

ACT 1550.

To prevent persons from obstructing the channels of Humboldt Bay and Harbor. [Stats. 1853, p. 192.]

Superseded by Political Code, §§ 2567-2572, relating to harbor commissioners of Eureka.

ACT 1551.

To grant to the United States certain tide lands belonging to the state of California for the purpose of improving the harbor of Humboldt Bay. [Approved March 9, 1887. Stats. 1887, p. 59.]

ACT 1552.

To grant to the United States certain tide lands belonging to the state of California, for the purpose of improving the harbor of Humboldt Bay. [Approved March 15, 1889. Stats. 1889, p. 201.]

ACT 1553.

Authorizing the governor and attorney general to purchase for the state certain lands in Humboldt Bay. [Stats. 1899, p. 166.]

ACT 1554.

An act appropriating money to be expended by and under the direction of the department of engineering for the purpose of making a preliminary survey of Humboldt Bay and gathering data for a report to the legislature as to the necessity of dredging and removing sand and other deposits formed across the channels of said bay and as to the best manner of removing said deposits that the navigability of said bay may be improved and making an estimate of the cost thereof. [Approved April 12, 1909. Stats. 1909, p. 841.]

This act appropriated \$2,000 for the purpose indicated.

**TITLE 224.
HUMBOLDT COUNTY.**

ACT 1558.

Clerk of, compensation of. [Stats. 1875-76, p. 81.]

Repealed by County Government Act, 1897, p. 518, § 168.

ACT 1559.

District attorney of, salary of. [Stats. 1875-76, p. 34.]

Superseded by County Government Act, 1897, p. 518, § 168.

ACT 1560.

Dependent poor and indigent sick of, relief and maintenance of. [Stats. 1875-76, p. 41.]

Supplemented 1875-76, p. 488. Superseded by County Government Act, 1897, p. 452.

ACT 1561.

To provide an additional judge for. [Stats. 1895, p. 27.]

ACT 1562.

Jurors in courts of justice of the peace in. [Stats. 1873-74, p. 229.]
As to jurors' fees, repealed 1895, p. 278.

ACT 1563.

Providing for the scaling of logs in. [Stats. 1877-78, p. 779.]

ACT 1564.

Additional notaries public. [Stats. 1871-72, p. 159.]

Superseded by Political Code, § 791.

This act provided for the appointment of three additional notaries.

See Act 2500, post.

ACT 1565.

Fixing compensation of certain officers of. [Stats. 1873-74, p. 109.]

Repealed by County Government Act, 1897, p. 518, § 168.

ACT 1566.

Concerning roads of. [Stats. 1871-72, p. 105.]

Amended 1878-74, p. 108. Modified, if not superseded, by County Government Act, 1897, p. 452, and by § 2, Stats. 1888, p. 5, c. X.

ACT 1567.

Roads in. [Stats. 1875-76, p. 477.]

Repealed 1888, p. 5, c. X, § 2.

ACT 1568.

Sheriff, concerning office of. [Stats. 1871-72, p. 797.]

Repealed by County Government Act, 1897, p. 518, § 168.

This act allowed the sheriff compensation for his services as jailer.

ACT 1569.

Supervisors, fixing number of. [Stats. 1875-76, p. 333.]

Repealed by the County Government Act, 1897, p. 452.

ACT 1570.

To provide for the disposal of lots in the towns and villages on the public lands in the county of Humboldt. [Stats. 1855, p. 168.]

Amended Stats. 1856, p. 75; 1857, p. 241; 1860, p. 5.

This act was passed to carry out the provisions of the federal statutes for the benefit of the occupants of such towns.

ACT 1571.

Fixing compensation of treasurer and assessor. [Stats. 1871-72, p. 169.]

Superseded and in effect repealed by County Government Act, 1897, p. 518, § 168, as amended 1901, p. 721.

ACT 1572

To declare certain streams and sloughs in Humboldt County navigable.
[Stats. 1860, p. 159.]

Incorporated in Political Code, § 2349.

TITLE 225.

HUNTING ON PRIVATE GROUNDS.

ACT 1577.

To prevent hunting and shooting on private inclosed grounds, and the destruction of growing timber on private grounds in certain counties in this state. [Stats. 1871-72, p. 304.]

Amended Stats. 1873-74, p. 792.

Partly codified by § 602, Penal Code: See Penal Code, § 602, note.

This act applied to Alameda, San Mateo, Marin, San Bernardino, San Diego, Colusa, Sacramento, Sonoma, Nevada, Humboldt, Los Angeles, Santa Barbara, Contra Costa, and San Luis Obispo counties. It was amended in 1873-74, p. 792, so as to make it apply to Alameda, San Mateo, Marin, San Bernardino, San Diego, Colusa, Sacramento, Sonoma, Nevada, Humboldt, Los Angeles, Santa Barbara, Contra Costa, San Luis Obispo, and Mendocino counties.

See Act 1593, post.

TITLE 226.

HUSBAND AND WIFE.

ACT 1582.

Defining the rights of husband and wife. [Stats. 1850, p. 254.]

Amended 1853, p. 165; 1857, p. 199; 1858, p. 22; 1861, p. 310; 1862, p. 518; 1863-64, p. 368. Superseded by provisions of Civil Code.

Citations. Cal. 5/256; 7/270; 47/87; 49/190; 50/105; 37/647; 97/192; 98/468; 106/613, 614; 121/138, 135.

TITLE 227.

IMMIGRATION.

ACT 1587.

Concerning passengers arriving in the ports of the state of California.
[Stats. 1852, p. 78.]

Amended 1853, p. 71; 1860, pp. 32, 58; 1862, p. 486; 1863, p. 150.

Citations. Cal. 42/581.

This act prescribed the duties of masters of vessels in relation to passengers arriving. It was superseded by Political Code, §§ 2949-2969.

ACT 1588.

To discourage the immigration to this state of persons who cannot become citizens. [Stats. 1855, p. 194.]

This act imposed a fine of fifty dollars on every immigrant incompetent to become a citizen. It was declared unconstitutional in *People v. Downer*, 7 Cal. 169.

TITLE 228.
INCLOSURES.

ACT 1593.

Preventing persons passing through inclosures and leaving them open by tearing down fences or otherwise, and to prevent hunting upon inclosed lands. [Stats. 1875-76, p. 408.]

Amended 1877-78, pp. 47, 776.

Many of the sections of this act were codified by amendments to the Penal Code, 1905: See §§ 384b, 384c, 602, Penal Code.

This act also punished the offenses of wounding the animals of another and of leaving fires. It provided that certain of its provisions should not apply to the counties of Los Angeles, San Diego, Sutter, San Benito, Del Norte, El Dorado, Colusa, Yuba, Humboldt, Amador, Tuolumne, San Luis Obispo, Plumas, Lassen, Siskiyou, Modoc, Shasta, Trinity, Sierra, and Placer. It was amended 1877-78, pp. 49, 776, so as to exempt from certain of its provisions the counties of Los Angeles, San Diego, Sutter, Del Norte, El Dorado, Colusa, Yuba, Humboldt, Amador, Tuolumne, San Luis Obispo, Plumas, Lassen, Siskiyou, Modoc, Shasta, Trinity, Sierra, Placer, San Benito, and Santa Cruz.

See Act 1577, ante.

TITLE 229.
INDEX.

ACT 1598.

Authorizing the superintendent of state printing to have prepared and printed an index to all the laws of California, 1850-93. [Stats. 1893, p. 150.]

TITLE 230.
INDIANS.

ACT 1603.

For the government and protection of Indians. [Stats. 1850, p. 403.]

Amended 1855, p. 179; 1860, p. 196; 1863, pp. 743, 755.

Some provisions of this act were repealed by later inconsistent statutes: *People v. Antonio*, 27 Cal. 404. Other provisions were undoubtedly repealed by the codes. It is probably not in force in any particular. In the absence of direct legislation, it is deemed advisable to call attention to it.

ACT 1604.

To prevent the sale of firearms and ammunition to Indians. [Stats. 1854, p. 24.]

Superseded by Penal Code, § 398.

ACT 1605.

Granting to United States all lands within Indian reservations. [Stats. 1862, p. 552.]

ACT 1606.

To aid officers in the Indian department, appointed by the general government for the state of California, in the discharge of their duties. [Stats. 1856, p. 223.]

Amended 1857, p. 186.

"The above-named statute is mentioned by the code commissioners at § 1546 without anything to indicate that they suppose it to be repealed by any of the codes. If, however, as is indicated by the note to § 6 of the Penal Code, that section was intended to enumerate every act or omission made punishable, then this statute must have been substantially, if not absolutely, repealed by that code."—Code Commissioners' Note, 1903.

ACT 1607.

To provide for the auditing and examination of claims against the state of soldiers who served in the Indian wars in California. [Stats. 1897, p. 250.]

TITLE 231. INFANTS.

ACT 1610.

An act to prevent any minor under the age of eighteen years visiting any prize-fight, cock-fight, or place where any prize-fight or cock-fight is advertised or represented to take place and to provide a punishment therefor.

[Approved April 17, 1909. Stats. 1909, p. 983.]

§ 1. It shall be unlawful for any minor under the age of sixteen years to visit or attend any prize-fight, cock-fight, or place where any prize-fight, cock-fight, or place where any prize-fight or cock-fight is advertised to take place.

§ 2. It shall be unlawful for the owner, lessee or proprietor, or the agent of any owner, lessee or proprietor of any place where any prize-fight or cock-fight is advertised or represented to take place to admit any minor under the age of eighteen years to such a place where any prize-fight or cock-fight is advertised or represented to take place; or to admit, or to sell or give away to any such minor a ticket or other paper by which said minor might be admitted to such place where such prize-fight or cock-fight is advertised to take place.

Misdemeanor.

§ 3. Every person violating any of the provisions of the preceding sections is guilty of a misdemeanor, and shall be punished by a fine of not exceeding fifty dollars, or be imprisoned in county jail not more than twenty-five days.

ACT 1611.

An act regulating the employment and hours of labor of children—prohibiting the employment of minors under certain ages—prohibiting the employment of certain illiterate minors—providing for the enforcement hereof by the commissioner of the bureau of labor statistics and providing penalties for the violation hereof.

[Approved February 20, 1905. Stats. 1905, p. 11.]

Amended 1907, pp. 598, 578; 1909, pp. 211, 887.

Construed in re Spencer, 149 Cal. 396.

Citations. Cal. 149/399, 403, 404.

§ 1. No minor under the age of eighteen shall be employed in laboring in any manufacturing, mechanical or mercantile establishment; or other place of labor, more than nine hours in one day, except when it is necessary to make repairs to prevent the interruption of the ordinary running of the machinery, or when a different apportionment of the hours of labor is made for the sole purpose of making a shorter day's work for one day of the week; and in no case shall the hours of labor exceed fifty-four hours in a week.

§ 2. No minor under the age of sixteen years shall be employed or permitted to work in any mercantile institution, office, laundry, manufacturing establishment, workshop, place of amusement, restaurant, hotel, apartment house, or in the distribution or transmission of merchandise or messages between the hours of 10 o'clock in the evening and 6 o'clock in the morning.

No child under fourteen years of age shall be employed in any mercantile institution, office, laundry, manufacturing establishment, workshop, place of amusement, restaurant, hotel, apartment house, or in the distribution or transmission of merchandise or messages.

Provided, that the judge of the juvenile court of the county, or city and county, or in any county or city and county in which there is no juvenile court, then any judge of the superior court of the county or city and county in which such child resides shall have authority to issue a permit to work to any such child over the age of twelve years, upon a sworn statement being made to him by the parent of such child that such child is past the age of twelve years, that the parents or parent of such child are incapacitated for labor through illness, and after investigation by a probation officer or truant officer of the city, or city and county, in which such child resides, or in cities and counties where there are no probation or truant officers, then by such other competent person as the judge may designate for this purpose. The permit so issued shall specify the kind of labor and the time for which it is issued, and shall in no case be issued for a longer period than shall seem necessary to the judge issuing such permit. Such permit shall be kept on file by the person, firm, or corporation employing the child therein designated, during the term of said employment, and shall be given up to such child upon his quitting such employment. Such certificate shall be always open to the inspection of the truant and probation officers of the city and county, city or county, in which the place of employment is situated, or of the officers of the state bureau of labor statistics.

And provided, that the attendance officer of any county, city and county, or school district in which any place of employment, in this section named, is situated, shall have the right and authority, at all times to enter into any such place of employment for the purpose of investigating violations of the provisions of this act, or violations of the provisions of an act entitled "An act to enforce the educational rights of children and providing penalties for violations of the act," approved March 24, 1903, and amended March 20, 1905; provided, however, that if such attendance officer is denied entrance to such place

of employment, any magistrate may, upon the filing of an affidavit by such attendance officer setting forth the fact that he has good cause to believe that the provisions of this act, or the act hereinbefore referred to, are being violated in such place of employment, issue an order directing such attendance officer to enter said place of employment for the purpose of making such investigations.

And provided, that any such child over the age of twelve years may be employed at any of the occupations mentioned in this act during the regular vacation of the public schools of the city, county or city and county, in which the place of employment is situated, upon the production of a permit signed by the principal of the school which such child has attended during the term next preceding any such vacation. Such permit shall contain the name and age of the child to whom it is issued, and the date of the termination of the vacation for which it is issued, and shall be kept on file by the employer during the period of employment, and at the termination of such employment shall be returned to the child to whom it was issued.

No minor who is under sixteen years of age shall be employed or permitted to work at any gainful occupation during the hours that the public schools of the city, town or school district in which his place of employment is situated are in session, unless he or she can read English at sight and can write legibly and correctly simple English sentences, or unless he or she is a regular attendant for the then current term at a regularly conducted night school. A certificate of the principal of such school shall be held to be sufficient evidence of such attendance. [Amendment approved March 15, 1909. Stats. 1909, p. 387.]

§3. Every person, firm, or corporation employing minors under eighteen years of age, in any manufacturing establishment, shall post, and keep posted, in a conspicuous place in every room where such help is employed, a written or printed notice stating the number of hours per day for each day of the week required of such persons.

Every person, firm, or corporation, agent or officer of a firm or corporation employing or permitting minors under sixteen years and over fourteen years of age to work in any mercantile institution, office, laundry, manufacturing establishment, workshop, place of amusement, restaurant, hotel, apartment house, or in the distribution or transmission of merchandise or messages, shall keep a record of the names, ages, and places of residence of such minors, and shall have on file a certificate of age and schooling, as provided in this act, for every such minor so employed, said record and certificate to be open at all times to the inspection of those whose duty it is to enforce the provisions of this act.

An age and schooling certificate shall be approved only by the superintendent of schools of the city or city and county, or by a person authorized by him, in writing, or where there is no city or city and county superintendent of schools, by a person authorized by the local school trustees; provided, that the superintendent or principal of any school of recognized standing shall have the right to approve an age and schooling certificate, and shall have the same rights and powers as the superintendent of public schools to issue the certificate herein pro-

vided, for children attending such schools. The persons authorized to issue age and schooling certificates shall have the authority to administer the oaths necessary for carrying out the provisions of this act, but no fees shall be charged for issuing such certificates.

An age and schooling certificate shall not be approved unless satisfactory evidence is furnished by the last school census, the certificate of birth or baptism of such child, the public register of birth of such child, or in some other manner, that such child is of the age stated in the certificate.

A duplicate copy of each age and schooling certificate granted under the provisions of this act shall be kept by the person issuing such certificate, such copy to be filed with the county superintendent of schools in the county where the certificate was issued; provided, that all such copies of certificates issued between June 25th and December 25th of any year shall be filed not later than December 31st of such year, and those issued between December 25th and June 25th of the ensuing year shall be filed not later than June 30th of each year. Such certificate shall be substantially in the following form, to wit:

Age and Schooling Certificate.—This certifies that I am the (father, mother, or guardian) of (name of child), and that (he or she) was born at (name of town or city), in the county of (name of county) (if known) and state (or country) of (name), on the (day and year of birth), and is now (number of years and of months) old.

Signature as provided in this act.

Town or city, and date.

There personally appeared before me the above-named (name of person signing) and made oath that the foregoing certificate by (him or her) signed is true to the best of (his or her) knowledge and belief.

I hereby approve the foregoing certificate of (name of child) height (feet and inches), complexion (fair or dark), hair (color), having no sufficient reason to doubt that (he or she) is of the age therein certified, and I hereby certify that (he or she) can or cannot read English at sight, and can or cannot write legibly simple sentences in the English language.

Signature of the person authorized to sign, with his official character and authority.

Town or city and date.

This certificate belongs to the person in whose behalf it is drawn, and it shall be surrendered to (him or her) whenever (he or she) leaves the service of the person, firm, or corporation holding the same.

The certificate as to the birthplace and age of the minor under sixteen and over fourteen years of age shall be signed by his father, his mother, or his guardian; if a child has no father, mother, or guardian living in the same city or town, his own signature to the certificate may be accepted by the person authorized to approve the same.

Every person authorized to sign the certificate prescribed by this act, who knowingly certifies to any false statement therein, is guilty of a misdemeanor and upon conviction thereof shall be fined not less than five nor more than fifty dollars, or imprisonment not more than thirty days, or by both such fine and imprisonment.

The county superintendent of schools of each county shall file with the commissioner of the bureau of labor statistics a report showing the number of age and schooling certificates issued to male and female minors, fourteen years and fifteen years of age, and such other detailed information as the commissioner may require. Said report to be filed during the months of January and July of each year for the preceding six months ending June 25th and December 25th of each year, and cover certificates issued during said periods and on file in the office of county superintendents of schools, as described in paragraph five of this section. [Amendment approved March 15, 1909. Stats. 1909, p. 389.]

§ 4. Any person, firm, corporation, agent, or officer of a firm or corporation that violates or omits to comply with any of the foregoing provisions of this act, or that employs, or suffers, or permits any minor to be employed in violation thereof, is guilty of a misdemeanor and shall, on conviction thereof, be punished by a fine of not less than fifty dollars or more than two hundred dollars, or by imprisonment for not more than sixty days, or by both such fine and imprisonment, for each and every offense. A failure to produce any age and schooling certificate or permit, or to post any notice required by this act, shall be prima facie evidence of the illegal employment of any person whose age and schooling certificate or permit is not produced, or whose name is not so posted. Any fine collected under the provisions of this act shall be paid into the school funds of the county, or city and county, in which the offense occurred.

Except such fines imposed and collected as the result of prosecutions by the officers of the bureau of labor statistics. In such cases one-half of resultant fine or fines shall be paid into the state treasury and credited to the contingent fund of the bureau of labor statistics, and one-half paid into the school funds of the county, or city and county in which the offense occurred. [Amendment approved March 15, 1909. Stats. 1909, p. 391.]

§ 5. Nothing in this act shall be construed to prohibit the employment of minors at agricultural, horticultural, viticultural, or domestic labor, during the time the public schools are not in session, or during other than school hours. For the purpose of this act, horticulture shall be understood to include the curing and drying, but not the canning, of all varieties of fruit. [Amendment approved March 19, 1907. Stats. 1907, p. 598.]

§ 6. It shall be the duty of the commissioner of the bureau of labor statistics to enforce the provisions of this act. The commissioner, his deputies and agents shall have all powers and authority of sheriffs to make arrests for violations of the provisions of this act. [Amendment approved March 15, 1909. Stats. 1909, p. 391.]

§ 7. This act shall take effect sixty days after its passage.

ACT 1611a.

An act to aid the enforcement of an act entitled, "An act to enforce the educational rights of children and providing penalties for violation of the act," approved March 24, 1903.

[Approved March 8, 1909. Stats. 1909, p. 209.]

§ 1. All minors coming within the provisions of an act entitled, "An act regulating the employment and hours of labor of children, prohibiting the employment of minors under certain ages, prohibiting the employment of certain illiterate minors, providing for the enforcement hereof by the commissioner of the bureau of labor statistics and providing penalties for the violation hereof," (approved February 20, 1905) and found employed and at work without the necessary legal authorization as provided for and required in said act, and whose ages are between the maximum and minimum age limits as described in an act entitled, "An act to enforce the educational rights of children and providing penalties for violation of the act," shall be placed or delivered into the custody of the school district authorities of the county, city, or city and county in which they are found illegally at work.

§ 2. The commissioner of the bureau of labor statistics is hereby authorized, directed and empowered to enforce the provisions of this act.

§ 3. This act shall take effect immediately.

ACT 1612.

To prevent sale of intoxicating drinks to. [Stats. 1871-72, p. 231.]

Superseded 1891, p. 91. See Act 1618.

ACT 1613.

To prevent the sale of intoxicating liquors to. [Stats. 1891, p. 91.]

Superseded by act of 1908, p. 819. See Act 1614.

ACT 1614.

To prevent the selling, giving or delivering intoxicating liquors to minor children, and to prevent minor children visiting saloons or public houses where intoxicating liquors are sold. [Approved March 20, 1903. Stats. 1903, p. 319.]

Codified by § 897b of Penal Code: See Penal Code, § 897b, note.

ACT 1615.

To protect female children under the age of seventeen. [Stats. 1860, p. 86.]

This act prohibited the exhibition of female children under seventeen in any public place. Superseded by Penal Code.

ACT 1616.

For the protection of children, and to prevent and punish certain wrongs to children. [Stats. 1877-78, p. 812.]

Codified by § 607 of Civil and §§ 272, 273a-273d of Penal Code, 1905. See note on page 233, Civil Code, and note to § 272, Penal Code.

This act prevented minors under sixteen from entering saloons and prevented anyone from using children for purposes of beggary.

ACT 1617.

Relating to children. [Stats. 1877-78, p. 813.]

Codified by amendments to both the Civil and Penal Codes, 1905: See § 607 et seq., Civil Code, and § 272 et seq., Penal Code.

This act prevented the selling or apprenticing of children for immoral purposes.

ACT 1618.

For the incorporation of societies for the prevention of cruelty to children. [Approved April 3, 1876. Stats. 1875-76, p. 830.]

Codified by § 607 et seq., Civil Code, and § 272 et seq., Penal Code.

ACT 1619.

To regulate the hours of labor and employment of minors. [Stats. 1889, p. 4.]

See Acts 1611, 1620.

ACT 1620.

To regulate the employment, hours of labor, etc., of children. [Stats. 1901, p. 631.]

Superseded by act of 1905, p. 11: See ante, Act 1611.

See Acts 1611, 1619.

ACT 1621.

Relating to the care and custody of minor children in certain cases. [Stats. 1869-70, p. 328.]

Superseded by Civil Code, §§ 198, 199.

ACT 1622.

Orphan and abandoned children, care of. [Stats. 1873-74, p. 297.]

Amended 1877-78, p. 82.

Codified by § 246, Civil Code, adopted 1905, and § 271a, Penal Code: See Penal Code, § 271a, note. See note to § 246, Civil Code.

This act provided for the publication of notices of children admitted, and inflicted a penalty for abandonment of children.

TITLE 232.**INSANE.****ACT 1626.**

An act authorizing and directing the board of managers of the Agnews State Hospital to continue the work of replacing and reconstructing and re-equipping for the accommodation and treating of patients, buildings destroyed April 18, 1906, to appropriate the sum of two hundred fifteen thousand dollars therefor, to direct the manner of expenditure thereof, to remove restriction upon the per capita cost, and authorizing and directing the state controller to draw his warrant for the said sum, and the state treasurer to pay the same [Approved March 25, 1909. Stats. 1909, p. 791.]

ACT 1627.

To provide an additional asylum for chronic insane. [Stats. 1885, p. 35.]
Amended 1889, p. 180. Superseded by the Lunacy Commission Act, 1897, p. 811.

This act created the asylum at Agnewa.

ACT 1628.

To provide for the erection of water towers and tanks on the grounds of the Agnewa state hospital. [Stats. 1901, p. 806.]

ACT 1629.

To establish a branch insane asylum for the insane of the state of California at Ukiah, to be known as the Mendocino State Insane Asylum, and appropriating money therefor. [Stats. 1889, p. 25.]
Superseded by the Lunacy Commission Act, 1897, p. 811.

ACT 1630.

To change the name of the Mendocino State Asylum for the Insane to Mendocino Asylum. [Stats. 1893, p. 75.]

ACT 1631.

To provide for the future management of Napa State Asylum for the Insane. [Stats. 1875-76, p. 133.]

Amended 1883, p. 281; 1887, p. 177; 1889, p. 851. Repealed by the Lunacy Commission Act, 1897, p. 811.

Citations. Cal. 87/198; 98/80; 116/441; 149/737; 153/699, 702.

See In re Olary, 149 Cal. 732.

ACT 1632.

Napa State Asylum for the Insane, prohibiting sale of intoxicating liquors within certain distance of. [Stats. 1873-74, p. 27.]

Superseded by Penal Code, § 172.

ACT 1633.

Napa State Asylum, supply of water for. [Stats. 1875-76, p. 883.]

ACT 1634.

To provide for the erection and management of a state hospital for the insane to be located in southern California. [Stats. 1889, p. 120.]

Amended 1891, p. 481; 1895, p. 207. Superseded by the Lunacy Commission Act, 1897, p. 811.

ACT 1635.

Appropriation for supplying water, light, and fuel for the state insane asylum at Stockton. [Stats. 1889, p. 106.]

Repealed 1889, p. 225.

ACT 1636.

To authorize the board of managers of the Southern California State Hospital to sell a strip of land. [Stats. 1901, p. 563.]

ACT 1637.

Authorizing the trustees of the Southern California State Asylum to convey certain water rights. [Stats. 1895, p. 232.]

ACT 1637a.

An act to authorize and empower the board of managers of the Southern California State Hospital for the Insane, near the city of San Bernardino, San Bernardino County, to sell and convey a strip or parcel of land situate in San Bernardino County, in the state of California, and belonging to said state, to the San Bernardino Valley Traction Company for the purposes of a right of way for an electric railroad thereon. [Approved March 23, 1907. Stats. 1907, p. 911.]

ACT 1637b.

An act to ratify a deed of conveyance made by the Southern California State Hospital to the Bear Valley Mutual Water Company. [Approved March 21, 1907. Stats. 1907, p. 848.]

ACT 1638.

Insane, providing further accommodation for. [Stats. 1871-72, p. 673.]
Superseded as to government of the institution by 1897, p. 311.

ACT 1639.

To prevent the overcrowding of asylums for the insane. [Stats. 1885, p. 35.]

Superseded by the Lunacy Commission Act, 1897, p. 311.

ACT 1640.

In relation to the superintendent of the state insane asylum. [Stats. 1871-72, p. 845.]

Repealed 1877-78, p. 767.

This act required the superintendent to attend the annual meetings of the Superintendents of American Institutions for the Insane: See the act of 1877-78, p. 767.

ACT 1641.

To provide for the future management of the state asylums for the insane. [Stats. 1885, p. 32.]

"Modified, if not repealed, by 1889, p. 329, c. OOOX, and both modified, if not repealed, by the Lunacy Commission Act, 1897, p. 311."—Code Commissioners' Note.

ACT 1642.

To provide for the maintenance, support, and discharge in certain cases of insane persons confined in the state asylum for the insane, and for the control and management of a resulting contingent fund. [Stats. 1889, p. 329.]

Probably superseded by the Lunacy Act, 1897, p. 311.

This act provided for an inquiry into the ability of inmates to support themselves, and for the payment for their support by inmates found capable.

ACT 1643.

To establish a state lunacy commission, to provide a uniform government and management of the state hospitals for the insane, and provide for the care, custody, and apprehension of persons believed to be insane, and the commitment of insane persons, and providing for the transfer of unexpended appropriations of moneys and properties. [Stats. 1897, p. 311.]

Amended 1899, p. 160. Section 19 repealed 1900, p. 22. "Unconstitutional as to method of commitment. (Matter of Lambert, 184 Cal. 626.) Probably superseded by §§ 2186-2199, Political Code, as adopted in 1903, and amended in 1905. See, also, In the Matter of Clary, 149 Cal. 782."—Code Commissioners' Note.

Citations. Cal. 126/615, 616, 617, 619; 127/571; 129/382; 134/ 317, 319, 319, 627, 629, 630, 632; 136/581, 583; 138/380, 381, 384, 491; 149/736, 737, 738; 153/496, 699, 702.

ACT 1644.

An act to provide for restoration to capacity of persons adjudged to be insane, who have no guardians and who are not confined at state hospitals for the insane. [Approved March 23, 1901. Stats. 1901, p. 639.]

Repealed 1909, p. 261.

Citations. Cal. 153/496.

ACT 1647.

An act to authorize and empower the board of managers of the Agnews State Hospital to sell and convey a portion of real property situate in Santa Clara County, in the state of California, and belonging to said state, to the Western Distilleries. [Approved April 20, 1909. Stats. 1909, p. 1010.]

TITLE 233.**INSECTS.**

See "Horticulture."

ACT 1649.

To prevent the spreading of fruit and fruit-tree pests. [Stats. 1885, p. 40.]

Superseded 1899, p. 91, c. LXXVI.

TITLE 234.**INSOLVENCY.****ACT 1654.**

For the relief of insolvent debtors, for the protection of creditors, and for the punishment of fraudulent debtors. [Stats. 1895, p. 131.]

Amended 1897, p. 85. Superseded by the federal law on the subject.

Citations. Cal. 133/742.

See Act 283, ante, for further citations.

TITLE 235.
INSURANCE.

ACT 1859.

To provide for the formation of mutual insurance companies. [Stats. 1851, p. 523.]

Repealed. See § 288, Civil Code.

ACT 1860.

Supplementary to the act concerning corporations. [Stats. 1865-66, p. 23.]

This act enabled insurance companies to increase their capital stock.

"Repealed, except as to corporations existing prior to the adoption of the codes by § 288, Civil Code."—Code Commissioners' Note.

ACT 1861.

Prescribing conditions for transacting insurance business. [Stats. 1867-68, p. 323.]

Supplemented 1869-70, 321. Repealed, except as to pre-existing corporations by § 288, Civil Code."—Code Commissioner's Note.

ACT 1862.

To provide for the official valuation of life insurance policies. [Stats. 1869-70, p. 859.]

Amended 1871-72, p. 97. Repealed 1877-78, p. 83 (Code amendments).

ACT 1863.

Life insurance, forfeiture of policies of, act regulating. [Stats. 1871-72, p. 59.]

Repealed by amendment to codes, 1877-78, p. 83.

ACT 1864.

Relating to life, health, accident, and annuity or endowment insurance on the assessment plan, and the conduct of business of such insurance. [Stats. 1891, p. 126.]

Codified by §§ 453d-453p of Civil Code of 1905: See note to § 453d, Civil Code. Citations. Cal. 106/101, 108; 121/321, 324; 128/110; 129/633, 634; 138/679, 680, 681; 153/185, 186, 187, 188.

ACT 1865.

Providing for incorporation of mutual insurance companies. [Stats. 1865-66, p. 752.]

Amended 1867-68, pp. 380, 661; 1880, p. 229, but repealed by § 288, Civil Code.

Citations. Cal. 64/384; 67/167; 133/43, 47, 48, 50; 150/416.

ACT 1866.

Relating to fire and marine insurance companies. [Stats. 1865-66, p. 743.]

Amended 1867-68, p. 380. Repealed by § 282, Civil Code.

ACT 1667.

To provide for the organization and management of county fire insurance companies. [Stats. 1897, p. 439.]

Amended 1907, p. 941; 1909, p. 912.

This act appears in full in Civil Code, Appendix, p. 811.

ACT 1668.

To require the payment of certain premiums to counties and cities and counties, by fire insurance companies not organized under the laws of the state of California, but doing business therein, and providing for the disposition of such income. [Stats. 1885, p. 13.]

Amended 1887, p. 15.

Unconstitutional: *San Francisco v. Insurance Co.*, 74 Cal. 118. This act provided for the payment of a certain percentage of the income of fire insurance companies into a firemen's relief fund.

ACT 1669.

Relative to the noninsurance of property belonging to the state against risk of damage or destruction by fire. [Stats. 1891, p. 70.]

ACT 1670.

An act to establish a standard form of fire insurance policy and to prevent variations therefrom, excepting under certain stated conditions and restrictions.

[Approved March 18, 1909. Stats. 1909, p. 404.]

Standard form of fire insurance policy.

§ 1. The following is adopted as a standard form of fire insurance policy for the state of California:

CALIFORNIA STANDARD FORM FIRE INSURANCE POLICY.

No. —

Amount \$ —

Rate —

No other insurance permitted
except by agreement indorsed hereon or added hereto.

(Here insert name of company, and place of its main office in California, and name of state or country under which incorporated or organized.)

In consideration of the stipulations herein named and of — dollars premium does insure — for the term of — from the — day of — 19—, at noon, to the — day of —, 19—, at noon against all loss or damage by fire, except as hereinafter provided.

To an amount not exceeding — dollars to the following described property while located and contained as described herein, and not elsewhere, to wit:

The company will not be liable beyond the actual cash value of the interest of the insured in the property at the time of loss or damage nor exceeding what it would then cost the insured to repair or replace the same with material of like kind and quality; said cash value to be esti-

mated without allowance for any increased cost of repair or reconstruction by reason of any ordinance or law regulating repair or construction of buildings, and without compensation for loss resulting from interruption of business or manufacture.

This policy is made and accepted subject to the foregoing stipulations and conditions and those hereinafter stated, which are hereby specially referred to, and made part of this policy, together with such other provisions, agreements or conditions as may be indorsed hereon or added hereto, and no officer, agent, or other representative of this company shall have power to waive any provision or condition of this policy except by writing indorsed hereon or added hereto, and no person, unless duly authorized in writing, shall be deemed the agent of this company.

This policy shall not be valid until countersigned by the duly authorized agent of the company, at —.

In witness whereof, this company has executed and attested these presents (here insert name of company)

By —

Countersigned at — this — day of —, 19—.

— Agent.

STIPULATIONS AND CONDITIONS SPECIALLY REFERRED TO.

Property not covered. (a) This company shall not be liable for loss to accounts, bills, currency, evidences of debt or ownership or other documents, money, notes or securities; nor, (b) unless liability is specifically assumed hereon, for loss to bullion, casts, curiosities, drawings, dies, jewels, manuscripts, medals, models, patterns, pictures, scientific apparatus, business or store or office furniture or fixtures, sculptures, frescoes, decorations, or property held on storage or for repair.

Hazards not covered. This company will not be liable for loss by (a) theft; or (b) by neglect of the insured to use all reasonable means to save and preserve the property at and after a fire, or when the property is endangered by fire; or (c) unless fire ensues (and in that event for the damage by fire only) by explosion of any kind or lightning; or (d) by invasion, insurrection, riot, civil war, or commotion, or (except as hereinafter provided) by military or usurped power, or order of any civil authority, but the company will be liable (unless otherwise provided by indorsement hereon or added hereto) if the property is lost or damaged, by fire or otherwise, by civil authority or military or usurped power exercised to prevent the spread of fire not originating from a cause excepted hereunder and which fire otherwise probably would have caused the loss of or damage to the insured property.

Matters avoiding policy. This entire policy shall be void, (a) if the insured has concealed or misrepresented any material fact or circumstances concerning this insurance or the subject thereof; or, (b) in case of any fraud or false swearing by the insured touching any matter relating to this insurance or the subject thereof, whether before or after a loss.

Unless otherwise provided by agreement indorsed hereon or added hereto, this entire policy shall be void, (a) if the insured now has or

shall procure any other insurance, whether valid or not, on property covered in whole or in part by this policy, or (b) if the interest of the insured be other than unconditional and sole ownership, or (c) if the subject of insurance be a building on ground not owned by the insured in fee simple, or (d) if with the knowledge of the insured foreclosure proceedings be commenced or notice given of sale of any property covered by this policy by virtue of any mortgage or trust deed, or (e) if this policy be assigned before a loss.

Matters suspending insurance. Unless otherwise provided by agreement indorsed hereon or added hereto this company shall not be liable for loss or damage occurring (a) while the hazard be materially increased by any means within the control of the insured; or (b) if the subject of insurance be a manufacturing establishment, while it is operated in whole or in part at night later than 10 o'clock or while it ceases to be operated beyond the period of ten consecutive days; or (c) while mechanics or artisans are employed in building or altering or repairing the described premises for more than fifteen days at any one time; or (d) while illuminating gas or vapor be generated in the described building (or adjacent thereto) for use therein; or (e) while there be kept, used or allowed on the described premises (any usage or custom of trade or manufacture to the contrary notwithstanding) calcium carbide, phosphorus, dynamite, nitroglycerine, fireworks or other explosives; or exceeding one quart each of benzine, gasoline, naphtha or ether; or more than twenty-five pounds of gunpowder; or (f) while a building herein described whether intended for occupation by owner or tenant is vacant or unoccupied beyond the period of ten (10) consecutive days; (g) while the interest in, title to or possession of the subject of insurance is changed excepting:—(1) by the death of the insured; (2) a change of occupancy of building without material increase of hazard; and (3) transfer by one or more several copartners or co-owners to the others.

Such suspension shall not extend the term of this policy nor create any right for refund of the whole or any portion of premium, nor affect the respective rights of cancellation.

Chattel mortgage. Unless otherwise provided by agreement in writing indorsed hereon or added hereto this company shall not be liable for loss or damage to any property insured hereunder while encumbered by a chattel mortgage, but the liability of the company upon other property hereby insured shall not be affected by such chattel mortgage.

Fallen building clause. Unless otherwise provided by agreement indorsed hereon or added hereto, if a building or any material part thereof fall, except as the result of fire, all insurance by this policy on such building or its contents shall immediately cease.

Removal when endangered by fire. Should any of said property be necessarily removed because of danger from fire, and there is no other insurance thereon, that part of this policy in excess of the value of the insured property remaining in the original location, or, if there is other insurance thereon, that part of this policy in excess of its proportion of the value of the insured property remaining in the original location,

shall, for the ensuing five days only, cover said removed property in its new location or locations.

Cancellation. This policy shall be canceled at any time at the request of the insured, in which case the company shall, upon surrender of this policy, refund the excess of paid premium above the customary short rates for the expired time. This policy may be canceled at any time, without tender of unearned portion of premium, by the company by giving five (5) days' written notice of cancellation to the insured and to any mortgagee or other party to whom, with the written consent of the company, this policy is made payable, in which case the company shall, upon surrender of the policy or relinquishment of liability thereunder, refund the excess of paid premium above the pro rata premium for the expired time.

Duty of insured in case of loss. When a loss occurs the insured must give to this company written notice thereof without unnecessary delay; and shall protect the property from further damage; forthwith separate the damaged and undamaged personal property and put it in the best possible order; and without unnecessary delay make a complete inventory stating as far as possible the quantity and cost of each article, and the amount claimed thereon.

Within sixty days after the commencement of the fire the insured shall render to the company at its main office in California named herein preliminary proof of loss consisting of a written statement signed and sworn to by him setting forth:—(a) his knowledge and belief as to the origin of the fire; (b) the interest of the insured and of all others in the property; (c) the cash value of the different articles or properties and the amount of loss thereon; (d) all encumbrances thereon; (e) all other insurance, whether valid or not, covering any of said articles or properties; (f) a copy of the descriptions and schedules in all other policies unless similar to this policy, and in that event, a statement as to the amounts for which the different articles or properties are insured in each of the other policies; (g) any changes of title, use, occupation, location or possession of said property since the issuance of this policy; (h) by whom and for what purpose any building herein described, and the several parts thereof, were occupied at the time of the fire.

If the company claims that the preliminary proof of loss is defective and within five days after the receipt thereof (without admitting the amount of loss or any part thereof) notifies in writing the insured, or the party making such proof of loss, of the alleged defects (specifically stating them) and requests that they be remedied by verified amendments the insured or such party within ten days after the receipt of such notification and request must comply therewith, or, if unable so to do, present to the company an affidavit to that effect.

The insured shall also furnish, if required, as far as it is practicable to obtain the same, verified plans and specifications of any buildings, fixtures or machinery destroyed or damaged; and the insured shall exhibit to any person designated in writing by this company all that remains of any property herein described and shall submit to examina-

tion under oath, as often as required, by any such person, and subscribe to the testimony so given and shall produce to such person for examination all books of account, bills, invoices and other vouchers, and permit extracts and copies thereof to be made, and in case the originals are lost certified copies, if obtainable, shall be produced.

Ascertainment of amount of loss. This company shall be deemed to have assented to the amount of the loss claimed by the insured in his preliminary proof of loss, unless within twenty days after the receipt thereof, or, if verified amendments have been requested, within twenty days after their receipt, or within twenty days after the receipt of an affidavit that the insured is unable to furnish such amendments, the company shall notify the insured in writing of its partial or total disagreement with the amount of loss claimed by him and shall also notify him in writing of the amount of loss, if any, the company admits on each of the different articles or properties set forth in the preliminary proof or amendments thereto.

If the insured and this company fail to agree, in whole or in part, as to the amount of loss within ten days after such notification, this company shall forthwith demand in writing an appraisalment of the loss or part of loss as to which there is a disagreement and shall name a competent and disinterested appraiser, and the insured within five days after receipt of such demand and name, shall appoint a competent and disinterested appraiser and notify the company thereof in writing, and the two so chosen shall before commencing the appraisalment, select a competent and disinterested umpire.

The appraisers together shall estimate and appraise the loss or part of loss as to which there is a disagreement, stating separately the sound value and damage, and if they fail to agree they shall submit their differences to the umpire, and the award in writing duly verified of any two shall determine the amount or amounts of such loss.

The parties to the appraisalment shall pay the appraisers respectively appointed by them and shall bear equally the expense of the appraisalment and the charges of the umpire.

If for any reason not attributable to the insured, or to the appraiser appointed by him, an appraisalment is not had and completed within ninety days after said preliminary proof of loss is received by this company, the insured is not to be prejudiced by the failure to make an appraisalment, and may prove the amount of his loss in an action brought without such appraisalment.

Options of company in case of loss. This company may, at its option, take all or any part of the property for which insurance hereunder is claimed at its ascertained or appraised value, and may also, at its option, in satisfaction of its liabilities hereunder, repair, rebuild or replace any building or structure or machine or machinery used therein, with other of like kind and quality, within a reasonable time, upon giving notice within twenty days of its intention so to do after the receipt by it of the preliminary proof of loss, or, if verified amendments have been requested, within twenty days after their receipt, or, within

twenty days after the receipt of an affidavit that the insured is unable to furnish such amendments.

There can be no abandonment to this company of any property.

Apportionment of loss. This company shall not be liable under this policy for a greater proportion of any loss on the described property, or for loss by, and expenses of, removal from the premises endangered by fire, than the amount hereby insured bears to the entire insurance covering such property whether valid or not, or by solvent or insolvent insurers.

Loss when payable. A loss hereunder shall be payable in thirty days after the amount thereof has been ascertained either by agreement or by appraisement; but if such ascertainment is not had or made within sixty days after the receipt by the company of the preliminary proof of loss, then the loss shall be payable in ninety days after such receipt.

Nonwaiver by appraisal or examination. This company shall not be held to have waived any provision or condition of this policy or any forfeiture thereof, by assenting to the amount of the loss or damage or by any requirement, act, or proceeding on its part relating to the appraisal or to any examination herein provided for.

Subrogation. If this company shall claim that the fire was caused by the act or neglect of any person or corporation, this company shall, on payment of the loss be subrogated to the extent of such payment to all right of recovery by the insured for the loss resulting therefrom, and such right shall be assigned to this company by the insured on receiving such payment.

Time for commencement of action. No suit or action on this policy for the recovery of any claim shall be sustained, until after full compliance by the insured with all of the foregoing requirements, nor unless begun within fifteen months next after the commencement of the fire.

Definitions. Wherever in this policy the word "insured" occurs, it shall be held to include the legal representatives of the insured in case of his death, and wherever the word "loss" occurs, it shall be deemed the equivalent of "loss or damage," and wherever the words "the time of loss or damage" are used they shall be deemed the equivalent of "the time of the commencement of the fire."

What to be printed on outside fold of policy.

§2. There shall be printed on the outside fold of said policy in type not smaller than small pica the following words in this form:

READ THIS POLICY.

Ins. Co. is liable only for actual cash value.

POLICY IS VOID in case of any fraud, false swearing, misrepresentation or concealment about material facts.

POLICY IS VOID, unless otherwise agreed in writing, if

- 1st. It is assigned before loss;
- 2nd. Insured has or shall procure other insurance;
- 3rd. Any change occurs in location of property;

4th. Insured building is on ground not owned in fee simple by insured;

5th. Insured is not sole and unconditional owner.

POLICY IS SUSPENDED, unless otherwise agreed in writing, if

6th. Described building becomes vacant or unoccupied for ten days;

7th. Mechanics are employed more than 15 days in repairing same;

8th. Property is or becomes encumbered by chattel mortgage;

9th. Illuminating gas or vapor is generated in or adjacent to described building;

10th. Explosives or prohibited quantities of gasoline, etc., are kept on premises.

INSURANCE CEASES if described building or any material part falls except as result of fire.

Policy does not cover certain enumerated personal property.

NOTE particularly duty of insured in case of loss;

ALSO provisions avoiding or suspending policy, including changes of ownership or possession.

Special agreement regarding appraisement.

§ 3. By special agreement indorsed on the policy or added thereto the provisions regarding appraisement or apportionment of loss may be waived and the valuations of all or any of the insured property in case of total loss may be agreed upon in advance of loss.

Policy to be plainly printed.

§ 4. Said standard form of policy shall be plainly printed and no portion thereof shall be in type smaller than small pica and subheads shall be in type larger than pica, and the lines of the policy shall be numbered consecutively.

County fire companies excepted.

§ 5. This act shall not apply to any company organized under an act entitled "An act to provide for the organization and management of county fire insurance companies," approved April 1, 1897, or amendments to that act, but all other fire insurance policies on property in California shall be on said standard form, and, except as herein provided, shall not contain additions thereto. No parts of the standard form shall be omitted therefrom.

What may be added to policy.

§ 6. The blanks in said standard form shall be appropriately filled. The company may add to the standard form any matter relating to its financial condition, directors, officers, stockholders and history, and the address of its home office and principal office in the United States; also in red ink any provisions respecting any limitation of liability of the company, its stockholders or members which it is required or permitted by the law of the state or country of its organization to insert in its policies.

Clauses as to mortgagees.

§ 7. Clauses may be added to the standard form providing for and defining the rights, duties and obligations of mortgagees, assignees and

other parties who have acquired or may acquire an interest in, right to or lien upon the insured property.

Earthquake clause may be inserted, how.

§ 8. No clause shall be inserted or rider attached affecting the standard form liability of the insurer for loss or damage by fire occasioned either directly or indirectly by earthquake, hurricane, volcanic action or other disturbance of nature, unless the same shall be printed in red ink in type larger than small pica and at the head of the policy there shall be printed in red ink in large bold faced type the words, "This policy contains limitations of liability not permitted in the California standard form."

Other additional clauses.

§ 9. Clauses may be added to the standard form (a) covering property and risks not otherwise covered; (b) assuming greater liability than is otherwise imposed on the insurer; (c) granting insured permits and privileges not otherwise provided; (d) waivers of any of the matters avoiding the policy or suspending the insurance; (e) waivers of any of the requirements imposed on the insured after loss.

Separate riders.

§ 10. Except as herein otherwise provide clauses may be attached to the standard form by separate riders in type larger than pica imposing specified duties and obligations upon the insured and limiting the liability of the insurer.

Insurers other than corporations.

§ 11. Any insurers, other than corporations, issuing policies on property in California, shall use the standard form, changing only such words as refer to the corporation or company or to officers or agents of the corporation or company, and in regard to its organization; and such other insurers may substitute in place of such words having peculiar reference to corporations, appropriate words having similar reference to themselves.

Penalty for violation of act.

§ 12. Any insurer, or the agent countersigning or issuing a fire insurance policy covering in whole or in part property in California varying from the California standard form of policy except as herein provided is guilty of a misdemeanor but any policy so issued shall notwithstanding be binding upon the company issuing the same.

§ 13. This act shall take effect and be in force from and after the first day of August, 1909.

AUT 1671.

As act to extend the time for filing with the insurance commissioner statements of insurance business transacted during the year ending December 31, 1905, within the time prescribed by law, and to remit penalties for failing to file the same. [Approved June 14, 1906. Stats. 1906, p. 30.]

ACT 1672.

An act providing for the organization and management of mutual fire insurance companies. [Approved March 19, 1907. Stats. 1907, p. 631.]

This act appears in full in Civil Code, Appendix, p. 817.

ACT 1672a.

An act relating to life, health, and accident insurance of livestock on the assessment plan and the conduct of the business of such insurance. [Approved March 23, 1907. Stats. 1907, p. 952.]

This act appears in full in Civil Code, Appendix, p. 820.

TITLE 236.**INTEREST.****ACT 1673.**

An act fixing the rates of interest and charges on loans upon chattel mortgages on certain personal property, and prescribing penalties for the violation of the act. [Approved March 20, 1905. Stats. 1905, p. 422.]

Unconstitutional: In re Sohneke, 148 Cal. 262.

Compare Act 758, ante.

ACT 1674.

To regulate the interest of money. [Stats. 1850, p. 92.]

Amended 1867-68, p. 558; 1869-70, p. 669. Superseded by Civil Code, §§ 1917-1920.

Citations. Cal. 44/181, 369; 46/208; 49/402; 120/109.

TITLE 237.**INTERPRETERS.****ACT 1679.**

In relation to interpreters before grand jury. [Stats. 1871-72, p. 540.]

Codified by § 925 of Penal Code. See Penal Code, § 925, note.

ACT 1680.

To authorize the appointment of an interpreter of the Italian language in cities of one hundred thousand inhabitants. [Stats. 1885, p. 108.]

Amended 1895, p. 87.

Codified by Amendment of Penal Code, 1905. See note to § 925, Penal Code.

"Superseded as to San Francisco by c. I of art. V of the charter of that city."

—Code Commissioner's Note.

This act appears in full in Penal Code, Appendix, p. 807.

TITLE 238.**INTOXICATING LIQUORS.****ACT 1685.**

To prohibit the collection of accounts for liquors sold at retail. [Stats. 1858, p. 193.]

Superseded, although not in terms repealed, by the act of 1873-74, p. 509, to the same effect.

ACT 1686.

To prevent the sale of intoxicating liquors to persons addicted to the inordinate use thereof. [Stats. 1889, p. 352.]

This act can be found in the Appendix to the Penal Code, p. 809.

ACT 1687.

Permitting voters of every township or incorporated city to vote on question of granting license to sell. [Stats. 1873-74, p. 434.]

Repealed, 1875-76, p. 10.

Unconstitutional: Ex parte Wall, 48 Cal. 279.

ACT 1688.

To prevent the sale of intoxicating liquors to minor children. [Stats. 1891, p. 91.]

Probably superseded by Penal Code, § 897b, adopted 1905.

ACT 1689.

To prevent the selling, giving, or delivering intoxicating liquors to minor children, and to prevent minor children visiting saloons or public houses where intoxicating liquors are sold. [Stats. 1903, p. 319.]

Codified by § 397b of Penal Code, 1905. See note to § 397b, Penal Code.

ACT 1690.

To prevent the sale of intoxicating beverages on election day. [Stats. 1873-74, p. 297.]

Citations. Cal. 92/198.

Codified by § 68b of Penal Code, 1905. See note to § 68b, Penal Code.

ACT 1691.

To prohibit the sale of intoxicating liquors in the state capitol building. [Stats. 1880, p. 80.]

Codified by § 172 of Penal Code, 1905. See note to § 172, Penal Code.

ACT 1692.

To prevent the sale of intoxicating liquors in the immediate vicinity of soldiers' home. [Stats. 1895, p. 161.]

Codified by § 172 of Penal Code, 1905. See note to § 172, Penal Code.

See, also, post, Act 1693.

ACT 1693.

An act to prohibit the sale of intoxicating liquors within a certain distance of the Veterans' Home located at Yountville, Napa County. [Approved March 18, 1905. Stats. 1905, p. 126.]

See § 172, Penal Code.

This act prohibited the sale of liquors within one mile and a half of the home at Yountville.

ACT 1694.

An act to prohibit the sale of intoxicating liquors within a certain distance of the Mendocino State Hospital for the Insane. [Approved February 24, 1905. Stats. 1905, p. 20.]

This act prohibited the sale of liquor within one mile of the Mendocino State Hospital.

ACT 1695.

An act to prohibit the sale of intoxicating liquors within a certain distance of any camp or assembly of men, numbering twenty-five or more, engaged upon the construction, repair or operation of any public work, improvement, or utility. [Approved March 25, 1909. Stats. 1909, p. 722.]

This act appears in full in Penal Code, Appendix, p. 808.

TITLE 239.**INVENTORY.****ACT 1697.**

To require an inventory of state and county property, and directing that a record of the same be kept. [Stats. 1897, p. 5.]

Amended 1901, p. 98.

Superseded by § 4821, Political Code.

TITLE 240.**INYO COUNTY.****ACT 1702.**

Assessor, compensation of. [Stats. 1875-76, p. 81.]

Amended 1877-78, p. 256. Repealed by County Government Act 1897, p. 568. § 211.

ACT 1703.

Government of, payment of expenses of. [Stats. 1873-74, p. 374.]

See subds. 12 and 18, § 25, County Government Act, 1897, pp. 460, 463.

ACT 1704.

Protecting growing crops in. [Stats. 1871-72, p. 668.]

Probably repealed by acts of 1897, p. 198, and 1901, p. 603, relating to estrays.

This act was to prevent the trespassing of animals.

ACT 1705.

Additional notaries public for. [Stats. 1873-74, p. 574.]

Repealed by Political Code, § 791.

This act provided for the appointment of two additional notaries.

ACT 1706.

Salaries of certain officers of. [Stats. 1873-74, p. 177.]

Supplemented and amended 1873-74, p. 510. Repealed by constitution of 1879, abolishing office of county judge, and by County Government Act, 1897, p. 568, § 211.

ACT 1707.

Public roads, improvement of. [Stats. 1875-76, p. 421.]

Repealed 1882, p. 5, a. X, § 2, and Political Code, § 2652, as amended 1891, p. 478.

ACT 1708.

To provide for the distribution of school moneys in certain counties.
[Stats. 1877-78, p. 746.]

Repealed: See Political Code, § 1858.

This act related to Inyo and Mono counties.

ACT 1709.

Teachers in, employment of. [Stats. 1873-74, p. 509.]

Probably repealed by Political Code, § 1696, as amended 1893, p. 255.

ACT 1710.

Traveling fees of sheriffs of. [Stats. 1873-74, p. 236.]

Amended 1877-78, p. 372. Repealed by County Government Act, 1897, pp. 568, 571, 572, §§ 211, 214, 215.

ACT 1711.

Treasurer of, salary of. [Stats. 1877-78, p. 157.]

Repealed by County Government Act, 1897, p. 568, § 211.

TITLE 241.**IRRIGATION.****ACT 1716.**

Irrigation, act to promote. [Stats. 1871-72, p. 945.]

"Seems necessarily inconsistent with the Wright Act, 1887, p. 29, c. XXXIV, but that statute, in § 46, declares that none of its provisions shall be construed as repealing or modifying the provisions of any act relating to irrigation or water commissioners; also, with statute of 1897, p. 254, which also contains same reservations as to its repealing effect."—Code Commissioners' Note.

ACT 1717.

To provide for the organization and government of irrigation districts, and to provide for the acquisition of water and other property, and
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for the distribution of water for irrigation purposes. [Stats. 1887, p. 29.]

Amended 1889, p. 15; 1891, pp. 142, 147, 244; 1892, pp. 175, 516; 1897, § 241; 1899, p. 2. Supplemented 1889, pp. 18, 21, 212; 1893, pp. 276, 520; 1895, pp. 127, 174; 1897, pp. 254, 894. Repealed 1897, p. 254.

Citations. Cal. 76/367; 79/353; 87/142, 146, 147; 88/387, 342, 346, 353, 351, 353, 354, 355, 358; 92/306, 331; 94/318; 98/208; 103/385; 106/369, 371; 108/192, 194; 113/242, 510; 117/28, 384, 385; 120/288, 289, 290; 127/567, 568; 128/479; 130/180, 181, 182, 183, 184; 135/390, 392, 393; 136/185, 189; 140/345, 346, 541, 542, 543; 142/604, 605, 606, 607; 144/332, 334, 335, 727, 731, 736, 737; 149/501, 662, 663, 664; 153/20, 21, 23; 154/211, 216, 440.

AMD'T. 1891.

Citations. Cal. 106/365, 369; 113/510, 517, 521; 117/384, 386; 120/238, 292; 125/596. App. 5/642; 6/178, 180, 181.

The supplemental act of 1889, p. 212, is unconstitutional in part: *Cullen v. Glendora W. Co.*, 118 Cal. 503.

ACT 1718.

To amend "An act amendatory of and supplemental to an act entitled 'An act to provide for the organization and government of irrigation districts, and to provide for the acquisition of water and other property, and for the distribution of water thereby for irrigation purposes,' approved March 7, 1887, providing for the exclusion of certain lands within any such district." [Approved February 16, 1889. Stats. 1889, p. 21.]

Amended 1893, p. 29. Repealed by act of 1897, p. 254, so far as inconsistent therewith. See act of 1897, §§ 74-84, post, Act 1726.

Citations. Cal. 88/355.

Unconstitutional in part: *Cullen v. Glendora W. Co.*, 118 Cal. 503.

ACT 1719.

Amendatory of and supplemental to "An act to provide for the organization and government of irrigation districts, and to provide for the acquisition of water and other property, and for the distribution of water thereby for irrigation purposes," approved March 7, 1887, and providing for a change of the boundaries of irrigation districts, by including other lands therein. [Approved February 16, 1889. Stats. 1889, p. 18.]

Repealed by act of 1897, p. 254, so far as inconsistent therewith: See Stats. 1897, §§ 85-97, post, Act 1726.

ACT 1720.

Supplemental to an act entitled "An act to provide for the organization and government of irrigation districts, and to provide for the acquisition of water and other property, and for the distribution of water thereby for irrigation purposes," approved March 7, 1887, and to provide for the examination, approval, and confirmation of proceedings for the issue and sale of bonds issued under the provisions of said act. [Approved March 16, 1889. Stats. 1889, p. 212.]

Repealed by act of 1897, p. 254, so far as inconsistent therewith: See §§ 68-78, act of 1897, post, Act 1726.

Citations. Cal. 87/143, 146; 88/337, 340, 343; 91/538; 92/306, 330; 106/369; 113/511, 512, 513, 516; 117/384, 385, 387; 123/479; 132/291, 292; 133/343; 135/394, 396; 140/486; 142/605, 606; 150/320; 154/211, 217.

ACT 1721.

Supplemental to an act entitled "An act to provide for the organization and government of irrigation districts, and to provide for the acquisition of water and other property, and for the distribution of water thereby for irrigation purposes," approved March 7, 1887, providing for the abandonment of operations by irrigation districts and for their disorganization upon the discharge of all outstanding obligations, and dividing irrigation districts into classes for the purposes of this act. [Approved March 25, 1893. Stats. 1893, p. 520.]

Repealed by act of 1897, p. 254, so far as inconsistent therewith: See act of 1903, p. 3.

ACT 1722.

Supplemental to an act entitled "An act to provide for the organization and government of irrigation districts, and to provide for the acquisition of water and other property, and for the distribution of water thereby for irrigation purposes," approved March 7, 1887, providing for reducing the bonded indebtedness thereof. [Approved March 23, 1893. Stats. 1893, p. 276.]

Repealed by Stats. 1897, p. 254, so far as inconsistent therewith: See act of 1897, §§ 98-99½, post, Act 1726.

Citations. App. 6/180, 181.

ACT 1723.

Supplemental to an act entitled "An act to provide for the organization and government of irrigation districts, and to provide for the acquisition of water and other property, and for the distribution of water thereby for irrigation purposes," approved March 7, 1887, providing for the destruction of all or any part of the bonds of any irrigation district remaining unsold after the completion of their irrigation system. [Approved March 26, 1895. Stats. 1895, p. 127.]

Repealed by act of 1897, p. 254, so far as inconsistent therewith: See §§ 106-108 of act 1897, post, Act 1726.

ACT 1724.

To create Modesto irrigation district. [Stats. 1877-78, p. 320.]

ACT 1725.

West Side irrigation district creating. [Stats. 1877-78, p. 468.]

ACT 1726.

An act to provide for the organization and government of irrigation districts, and to provide for the acquisition or construction thereby of works for the irrigation of the lands embraced within such districts, and, also, to provide for the distribution of water for irrigation purposes.

[Approved March 31, 1897. Stats. 1897, p. 254.]

Amended 1901, p. 815; 1905, p. 27; 1909, pp. 12, 46, 429, 461, 998, 1062, 1075.

Citations. Cal. 124/2, 5, 7; 149/501, 503, 504, 663, 666; 153/21; 154/394, 442. App. 5/282, 284, 641, 642, 643, 644, 645, 647, 649, 650, 651, 652; 6/180, 181; 182.

- § 1-5. Organization.
- §§ 6-12. Election on organization.
- §§ 13-16. Duties and powers of boards of directors.
- §§ 17, 18. Water regulations.
- §§ 19-28. General elections.
- § 29. Title to property.
- §§ 30-33. Issuance of bonds.
- § 34. Assessment for completion of works.
- §§ 35-37. Duty of the assessor.
- § 38. Equalization of assessment.
- §§ 39-41. Levy of and collection of taxes.
- § 42. Publication of delinquent notice.
- §§ 43-46. Sale for delinquent taxes.
- §§ 47-51. Redemption of property sold for delinquent taxes.
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- §§ 53-56. Construction of works.
- §§ 57, 58. Governing directors.
- §§ 59, 60. Special assessments.
- § 61. Incurring indebtedness.
- §§ 62-65. Governing the use of water.
- §§ 66, 67. Exemption from taxation—Creation of funds.
- §§ 68-73. General provisions.
- §§ 74-84. Exclusion of lands.
- §§ 85-97. Inclusion of lands.
- §§ 98-99½. Reduction of bonded indebtedness.
- §§ 100-105. Lease of water.
- §§ 106-108. Destruction of unsold bonds.
- §§ 109, 110. Saving clauses.

ORGANIZATION.

§ 1. A majority in number of the holders of title, or evidence of title, to lands susceptible of irrigation from a common source and by the same system of works, such holders of title, or evidence of title, representing a majority in value of said lands, according to the equalized county assessment roll or rolls for the year last preceding, may propose the organization of an irrigation district, under the provisions of this act. Said equalized assessment roll or rolls shall be sufficient evidence of title for the purposes of this act.

§ 2. In order to propose the organization of an irrigation district, a petition shall be presented to the board of supervisors of the county in which the lands within the proposed district, or the greater portion thereof, are situated, signed by the required number of holders of title, or evidence of title, to lands within such proposed district, and representing the requisite majority in value of said lands, which petition shall set forth generally the boundaries of the proposed district, and also shall state generally the source or sources (which may be in the alternative), from which said lands are proposed to be irrigated, and shall pray that the territory embraced within the boundaries of the proposed district may be organized as an irrigation district under the provisions of this act. The petition may consist of any number of separate instruments and must be accompanied with a good and sufficient undertaking to be approved by said board of supervisors, in double the amount of the probable cost of organizing such district, conditioned that the sureties shall pay all of said costs, in case said organization shall not be effected. Said petition shall be presented at a regular meeting of said board, and shall be published for at least two weeks before the time at which the same is to be presented, in some newspaper of general circulation printed and published in the county where said petition is presented, together with a notice stating the time of the meeting at which the same will be presented; and if any portion of the lands within said proposed district lie within another county or counties then said petition and notice shall be published, as above provided, in a newspaper published in each of said counties. When contained upon more than one instrument, one copy only of such petition need be published, but the names attached to all of said instruments must appear in such publication. When such petition is presented, said board of supervisors shall hear the same, and may adjourn such hearing from time to time, not exceeding four weeks in all. No defect in the contents of the petition or in the title to or form of the notice or signatures, or lack of signatures, thereto shall vitiate any proceedings thereon, provided such petition or petitions have a sufficient number of qualified signatures attached thereto. On the final hearing said board shall make such changes in the proposed boundaries as may be deemed advisable, and shall define and establish such boundaries. But said board shall not modify said boundaries so as to exclude from such proposed district any territory which is susceptible of irrigation from any of the sources proposed; nor shall any lands which will not, in the judgment of said board, be benefited by irrigation, by means of any of said systems of works, be included within such proposed district. Any person whose lands are susceptible of irrigation from any of the proposed sources, may upon his application, in the discretion of said board, have such lands included within said proposed district. [Amendment approved February 11, 1909. Stats. 1909, p. 12. In effect immediately.]

§ 3. Upon such hearing of said petition, the board of supervisors shall determine whether or not said petition complies with the requirements of sections 1 and 2 of this act, and for that purpose must

board of supervisors. The right of appeal is hereby given to either party to the record within thirty days from entry of judgment. The appeal must be heard and determined by the supreme court within sixty days from the time of filing the notice of appeal.

§ 12. The officers elected at the election hereinbefore provided for shall immediately enter upon their duties as such, upon qualifying in the manner for such officers herein provided. Said officers shall hold office respectively until their successors are elected and qualified.

DUTIES AND POWERS OF BOARDS OF DIRECTORS.

§ 13. The directors of any district created after the passage of this act, on the first Tuesday after their election, after they shall have qualified, shall meet and classify themselves by lot into two classes, as nearly equal in number as possible, and the term of office of the class having the greater number shall expire at the next general February election in this act provided for; and the term of office of the class having the lesser number shall terminate at the next general February election thereafter. After such classification, said directors shall organize as a board, shall elect a president from their number, and appoint a secretary, who shall each hold office during the pleasure of the board. The salary of the secretary and the amount of the bond to be given by him for the faithful performance of his duties shall be fixed by the board of directors.

§ 14. The board of directors shall hold a regular monthly meeting at their office upon such time as they shall fix by a resolution duly entered upon their minutes, and when the time for such monthly meeting has been fixed it cannot again be changed for twelve months and it can only be changed upon resolution, passed at least two months prior to the time such change shall take effect and upon publication in a newspaper of general circulation in the county for at least one week prior to such change.

Such special meetings also may be held as may be required for the proper transaction of the business; provided, that all special meetings must be ordered by a majority of the board. The order must be entered of record, and five days' notice thereof must, by the secretary, be given to each member not joining in the order. The order must specify the business to be transacted, and no other business than that specified must be transacted at such special meeting.

All meetings of the board must be public, and three members shall constitute a quorum for the transaction of business; provided, however, that when the board consists of three members only, then in such case two shall constitute a quorum for the transaction of business, but on all questions requiring a vote there shall be a concurrence of at least the number constituting a quorum. All records of the board shall be open to public inspection during the business hours.

The board of directors at their regular monthly meeting in January of each year shall render and immediately thereafter cause to be pub-

lished a verified statement of the financial condition of the district, showing particularly the receipts and disbursements of the last preceding year, together with the source of such receipts and purpose of such disbursements. Said publications shall be made at least once a week for two weeks, in some newspaper, published in the county where the office of the board of directors of such district is situated. Whenever any act is required to be done or proceeding taken by this act, or the acts supplemental or amendatory thereto, on the first Tuesday in any month, such act may be done or proceeding had upon the time specified in the resolution, hereinbefore referred to, as the time for the regular monthly meeting of such board; provided also, that when the time of meeting other than the first Tuesday in the month has been specified, thereafter the newly elected directors shall meet and organize as a board upon the regular time fixed for the monthly meeting in March. [Amendment approved April 19, 1909. Stats. 1909, p. 998.]

§ 15. The board shall have the power, and it shall be their duty, to manage and conduct the business and affairs of the district; make and execute all necessary contracts; employ and appoint such agents, officers, and employees as may be required, and prescribe their duties. The board and its agents and employees shall have the right to enter upon any land to make surveys, and may locate the necessary irrigation works and the line for any canal or canals, and the necessary branches for the same, on any lands which may be deemed best for such location. Said board shall also have the right to acquire, either by purchase or condemnation, or other legal means, all lands, and waters, and water rights, and other property necessary for the construction, use, supply, maintenance, repair, and improvements of said canal or canals, and works, including canals and works constructed and being constructed by private owners, lands for reservoirs for the storage of needful waters, and all necessary appurtenances. But no purchase of any waters, or water rights, or canals, or reservoirs, or reservoir sites, or irrigation works, or other real property of any nature or kind, for any price in excess of ten thousand dollars shall be final or binding on the district, nor shall the purchase price thereof be paid until a petition of a majority of the holders of title, or evidence of title, to lands within the district, such holders of title, or evidence of title, representing a majority in value of said land, according to the last equalized assessment-roll of the district, shall have been filed with the board and an order of the board made thereon confirming such purchase. Said board may also construct the necessary dams, reservoirs, and works for the collection of water for said district, and do any and every lawful act necessary to be done, that sufficient water may be furnished to each land owner in said district for irrigation purposes. The said board is hereby authorized and empowered to take conveyances or other assurances for all property acquired by it under the provisions of this act, in the name of such irrigation district, to and for the uses and purposes herein expressed, and to institute and maintain any and all actions and proceedings, suits at law or in equity necessary or proper in order to fully

carry out the provisions of this act, or to enforce, maintain, protect, or preserve any and all rights, privileges, and immunities created by this act, or acquired in pursuance thereof. And in all courts, actions, suits, or proceedings, the said board may sue, appear, and defend in person or by attorneys, and in the name of such irrigation district. It shall be the duty of said board to establish equitable by-laws, rules, and regulations for the distribution and use of water among the owners of said lands, which must be printed in convenient form for distribution in the district. Said board shall have power generally to perform all such acts as shall be necessary to fully carry out the purposes of this act.

§ 15½. The board of directors, when they deem it advisable for the best interests of the district, and the convenience of the electors thereof, may at any time, but not less than sixty days before an election to be held in the district, change the boundaries of the divisions and election precincts of the district; provided, such damages shall be made to keep each division as nearly equal in area and population as may be practicable. Such change of boundaries of the divisions must be shown on the minutes of the board. The board of directors of any irrigation district now or that may hereafter be organized in this state, shall also have the power, and such board is hereby vested with authority to lease the system of canals and works in the district, whenever such leasing may be for the benefit of the district; provided, that when the directors of any irrigation district contemplate the leasing of the canals or works of such district, they shall give notice of such contemplation by publishing the same in some newspaper published in the county in which such irrigation district lies, at least three weeks prior to the making of any lease, and such lease shall be made to the highest bidder. But such board shall have the right to reject any and all bids. Such lease shall in no way interfere with any rights that may have been established by law at the time such lease is made; and further provided, that the board of directors shall require a good and sufficient bond to secure the faithful performance of the lease by the lessees. [New section approved March 28, 1901. Stats. 1901, p. 815. In effect immediately.]

§ 16. In case of condemnation proceedings the board shall proceed, in the name of the district, under the provisions of title seven, part three, of the Code of Civil Procedure.

WATER REGULATIONS.

§ 17. The use of all water required for the irrigation of the lands of any district formed under the provisions of this act, or the act of which this is supplementary or amendatory, together with the rights of way for canals and ditches, sites for reservoirs, and all other property required in fully carrying out the provisions of this act, is hereby declared to be a public use, subject to the regulation and control of the state, in the manner prescribed by law.

§ 18. It is hereby expressly provided that all waters distributed for irrigation purposes shall be apportioned ratably to each land owner upon the basis of the ratio which the last assessment of such owner for district purposes within said district bears to the whole sum assessed upon the district; provided, that any land owner may assign the right to the whole or any portion of the waters so apportioned to him.

GENERAL ELECTIONS.

§ 19. An election shall be held in each irrigation district on the first Wednesday in February, eighteen hundred and ninety-nine, and on the first Wednesday in February in each second year thereafter, at which an assessor, a collector, and a treasurer, and directors for the district shall be elected. The person receiving the highest number of votes for any office to be filled at such election shall be elected thereto. The assessor, collector, and treasurer shall each hold office from the first Tuesday in March next after, for two years, and until his successor is elected and qualified. Within ten days after receiving their certificates of election, hereinafter provided for, said officers shall take and subscribe the official oath, and file the same in the office of the board of directors, and execute the bond hereinafter provided for. The assessor shall execute an official bond in the sum of five thousand dollars, and the collector an official bond in the sum of twenty thousand dollars, and the district treasurer an official bond in the sum of fifty thousand dollars; each of said bonds to be approved by the board of directors; provided, that the board of directors may, if it shall be deemed advisable, fix the bonds of the treasurer and collector, respectively, to suit the conditions of the district, the maximum amount of the treasurer's bond not to exceed fifty thousand dollars, and the minimum amount thereof not to be less than ten thousand dollars; and the maximum amount of the collector's bond not to exceed twenty thousand dollars, and the minimum amount thereof not to be less than five thousand dollars. Each member of said board of directors shall execute an official bond in the sum of five thousand dollars, which said bonds shall be approved by the judge of the superior court of said county where such organization was effected, and shall be recorded in the office of the county recorder thereof, and filed with the secretary of said board. All official bonds herein provided for shall be in the form prescribed by law for the official bonds of county officers.

§ 20. On the first Tuesday in March next following their election, the directors who shall have been elected at the general February election, shall meet and organize as a board, elect a president and appoint a secretary, who shall each hold office during the pleasure of the board. And the directors of districts now organized, who shall have been elected at the general February election of eighteen hundred and ninety-nine, shall, on the first Tuesday in March next thereafter, when they meet to organize, first classify themselves by lot into two classes as nearly equal in number as possible. And the term of office of the class

having the greater number shall be two years; and the term of office of the lesser number shall be four years. The full term of office of directors is hereby fixed at four years.

§ 21. Fifteen days before any election held under this act, subsequent to the organization of any district, the secretary of the board of directors shall cause notices to be posted in three public places in each election precinct, of the time and place of holding the election, and shall also post a general notice of the same in the office of said board, which shall be established and kept at some fixed place, to be determined by said board, specifying the polling-places of each precinct. Prior to the time for posting the notices, the board must appoint for each precinct, from the electors thereof, one inspector and two judges, who shall constitute a board of election for such precinct. If the board fail to appoint a board of election, or the members appointed do not attend at the opening of the polls on the morning of election, the electors of the precinct present at that hour may appoint the board, or supply the place of an absent member thereof. The board of directors must, in its order appointing the board of election, designate the house or place within the precinct where the election must be held.

§ 22. The inspector is chairman of the election board and may administer all oaths required in the process of an election; and appoint judges and clerks, if, during the progress of the election, any judge or clerk cease to act. Any member of the board of election, or any clerk thereof, may administer and certify oaths required to be administered during the progress of an election. The board of election of each precinct must, before opening the polls, appoint two persons to act as clerks of the election. Before opening the polls, each member of the board and each clerk must take and subscribe an oath to faithfully perform the duties imposed upon them by law. Any elector of the precinct may administer and certify such oath. The polls must be opened at 8 A. M. on the morning of the election, and be kept open until 4 P. M., when the same must be closed. [Amendment approved April 22, 1909. Stats. 1909, p. 1062.]

§ 22a. The ballot used at the election shall be provided by the board of directors, and one of the clerks of election shall deliver, to each of the electors, one of the ballots so provided. The ballots shall have printed on them the names of all candidates whose names have been filed as provided in this act, with a voting square behind each name. The names shall be arranged in groups, alphabetically, under the designation of the office for which each person named is a candidate. Where more than one person is to be elected for an office of the same title, the words "Vote for — (inserting the proper number)" shall be printed under the title of the office. Each elector shall stamp a cross, with a rubber stamp to be provided by the board of directors, in the square behind the name of each candidate he wishes to vote for. [New section approved April 22, 1909. Stats. 1909, p. 1062.]

§ 22b. Not less than ten days before the election, any ten or more electors in the district may file with the board of directors a petition, requesting that certain persons, specified in such petition be placed on the ballot as candidates for the office named in the petition. The names proposed by the various petitions so filed, and no others, shall be printed on the ballots. But there shall be sufficient blank spaces left in which electors may write other names if they so desire. The petitions shall be preserved in the office of the secretary of the district. [New section approved April 22, 1909. Stats. 1909, p. 1063.]

§ 23. Voting may commence as soon as the polls are opened, and may be continued during all the time the polls remain opened, and shall be conducted, as nearly as practicable, in accordance with the provisions of the general election laws of this state. As soon as all the votes are counted, a certificate shall be drawn up on each of the papers containing the poll lists and tallies, or attached thereto, stating the number of votes each one voted for has received, and designating the office to fill which he was voted for, which number shall be written in figures and in words at full length. Each certificate shall be signed by the clerk, judge, and the inspector. One of said certificates, with the poll list and the tally paper to which it is attached, shall be retained by the inspector, and preserved by him at least six months. The ballots shall be strung upon a cord or thread by the inspector, during the counting thereof, in the order in which they are entered upon the tally list by the clerks; and said ballots together with the other of said certificates, with the poll list and tally paper to which it is attached, shall be sealed by the inspector in the presence of the judges and clerks, and indorsed "Election returns of (naming the precinct) precinct," and be directed to the secretary of the board of directors, and shall be immediately delivered by the inspector, or by some other safe and responsible carrier designated by said inspector, to said secretary, and the ballots shall be kept unopened for at least six months; and if any person be of the opinion that the vote of any precinct has not been correctly counted, he may appear on the day appointed for the board of directors to open and canvass the returns, and demand a recount of the vote of the precinct that is so claimed to have been incorrectly counted.

§ 24. No list, tally paper, or certificate returned from any election, shall be set aside or rejected for want of form, if it can be satisfactorily understood. The board of directors must meet at its usual place of meeting on the first Monday after each election to canvass the returns. If, at the time of meeting, the returns from each precinct in the district in which the polls were opened have been received, the board of directors must then and there proceed to canvass the returns; but if all the returns have not been received, the canvass must be postponed from day to day until all the returns have been received, or until six postponements have been had. The canvass must be made in public and by opening the returns and estimating the vote of the district for each person voted for, and declaring the result thereof.

having the greater number shall be two years; and the term of office of the lesser number shall be four years. The full term of office of directors is hereby fixed at four years.

§ 21. Fifteen days before any election held under this act, subsequent to the organization of any district, the secretary of the board of directors shall cause notices to be posted in three public places in each election precinct, of the time and place of holding the election, and shall also post a general notice of the same in the office of said board, which shall be established and kept at some fixed place, to be determined by said board, specifying the polling-places of each precinct. Prior to the time for posting the notices, the board must appoint for each precinct, from the electors thereof, one inspector and two judges, who shall constitute a board of election for such precinct. If the board fail to appoint a board of election, or the members appointed do not attend at the opening of the polls on the morning of election, the electors of the precinct present at that hour may appoint the board, or supply the place of an absent member thereof. The board of directors must, in its order appointing the board of election, designate the house or place within the precinct where the election must be held.

§ 22. The inspector is chairman of the election board and may administer all oaths required in the process of an election; and appoint judges and clerks, if, during the progress of the election, any judge or clerk cease to act. Any member of the board of election, or any clerk thereof, may administer and certify oaths required to be administered during the progress of an election. The board of election of each precinct must, before opening the polls, appoint two persons to act as clerks of the election. Before opening the polls, each member of the board and each clerk must take and subscribe an oath to faithfully perform the duties imposed upon them by law. Any elector of the precinct may administer and certify such oath. The polls must be opened at 8 A. M. on the morning of the election, and be kept open until 4 P. M., when the same must be closed. [Amendment approved April 22, 1909. Stats. 1909, p. 1062.]

§ 22a. The ballot used at the election shall be provided by the board of directors, and one of the clerks of election shall deliver, to each of the electors, one of the ballots so provided. The ballots shall have printed on them the names of all candidates whose names have been filed as provided in this act, with a voting square behind each name. The names shall be arranged in groups, alphabetically, under the designation of the office for which each person named is a candidate. Where more than one person is to be elected for an office of the same title, the words "Vote for — (inserting the proper number)" shall be printed under the title of the office. Each elector shall stamp a cross, with a rubber stamp to be provided by the board of directors, in the square behind the name of each candidate he wishes to vote for. [New section approved April 22, 1909. Stats. 1909, p. 1062.]

§ 22b. Not less than ten days before the election, any ten or more electors in the district may file with the board of directors a petition, requesting that certain persons, specified in such petition be placed on the ballot as candidates for the office named in the petition. The names proposed by the various petitions so filed, and no others, shall be printed on the ballots. But there shall be sufficient blank spaces left in which electors may write other names if they so desire. The petitions shall be preserved in the office of the secretary of the district. [New section approved April 22, 1909. Stats. 1909, p. 1063.]

§ 23. Voting may commence as soon as the polls are opened, and may be continued during all the time the polls remain opened, and shall be conducted, as nearly as practicable, in accordance with the provisions of the general election laws of this state. As soon as all the votes are counted, a certificate shall be drawn up on each of the papers containing the poll lists and tallies, or attached thereto, stating the number of votes each one voted for has received, and designating the office to fill which he was voted for, which number shall be written in figures and in words at full length. Each certificate shall be signed by the clerk, judge, and the inspector. One of said certificates, with the poll list and the tally paper to which it is attached, shall be retained by the inspector, and preserved by him at least six months. The ballots shall be strung upon a cord or thread by the inspector, during the counting thereof, in the order in which they are entered upon the tally list by the clerks; and said ballots together with the other of said certificates, with the poll list and tally paper to which it is attached, shall be sealed by the inspector in the presence of the judges and clerks, and indorsed "Election returns of (naming the precinct) precinct," and be directed to the secretary of the board of directors, and shall be immediately delivered by the inspector, or by some other safe and responsible carrier designated by said inspector, to said secretary, and the ballots shall be kept unopened for at least six months; and if any person be of the opinion that the vote of any precinct has not been correctly counted, he may appear on the day appointed for the board of directors to open and canvass the returns, and demand a recount of the vote of the precinct that is so claimed to have been incorrectly counted.

§ 24. No list, tally paper, or certificate returned from any election, shall be set aside or rejected for want of form, if it can be satisfactorily understood. The board of directors must meet at its usual place of meeting on the first Monday after each election to canvass the returns. If, at the time of meeting, the returns from each precinct in the district in which the polls were opened have been received, the board of directors must then and there proceed to canvass the returns; but if all the returns have not been received, the canvass must be postponed from day to day until all the returns have been received, or until six postponements have been had. The canvass must be made in public and by opening the returns and estimating the vote of the district for each person voted for, and declaring the result thereof.

§ 25. The secretary of the board of directors must, as soon as the result is declared, enter in the records of such board a statement of such result, which statement must show: (a) The whole number of votes cast in the district, and in each division of the district; (b) the names of the persons voted for; (c) the office to fill which each person was voted for; (d) the number of votes given in each precinct to each of such persons; (e) the number of votes given in each division for the office of director, and the number of votes given in the district for the offices of assessor, collector, and treasurer. The board of directors must declare elected the persons having the highest number of votes given for each office. The secretary must immediately make out and deliver to such person a certificate of election, signed by him, and authenticated with the seal of the board.

In case of a vacancy in the office of assessor, collector, or treasurer, the vacancy shall be filled by appointment of the board of directors; provided, that if said board of directors shall neglect or refuse to make such appointment within a period of forty days, then the board of supervisors of the county wherein the office of said board of directors is situated shall make such appointment. In case of a vacancy in the office of director, the vacancy shall be filled by appointment by the board of supervisors of the county where the office of such board of directors is situated, from the division in which the vacancy occurred. An officer appointed as above provided shall hold his office until the next regular election for said district, and until his successor is elected and qualified.

§ 26. A director shall be a resident and freeholder of the irrigation district, but not necessarily of the division for which he is elected.

§ 27. The board of directors may, in its discretion, consolidate any two or more of the offices of assessor, collector, and treasurer. The order of consolidation must be made at least thirty days prior to general election of the district, and shall take effect at the next succeeding election; provided, that the board of directors may, at least thirty days before a general election of the district, where the offices have been consolidated, segregate the same, each office to be filled at such election.

§ 28. In any district the board of directors thereof may, upon the presentation of a petition therefor, by a majority of the holders of title, or evidence of title, of said district, evidenced as above provided, order that on and after the next ensuing general election for the district, there shall be either three or five directors, as said board may order, and they shall be elected by the district at large, or by divisions, as so petitioned and ordered; and after such order such directors shall be so elected.

TITLE TO PROPERTY.

§ 29. The legal title to all property acquired under the provisions of this act shall immediately and by operation of law vest in such irrigation district, and shall be held by such district, in trust for, and is hereby dedicated and set apart to the uses and purposes set forth in this act. And said board is hereby authorized and empowered to hold, use, acquire,

manage, occupy and possess said property, as herein provided. The board of directors may determine by resolution duly entered upon their minutes that any property, real or personal, held by such irrigation district is no longer necessary to be retained for the uses and purposes thereof, and may thereafter sell such property; and a conveyance of any property held by an irrigation district, executed by the president and secretary thereof, in accordance with a resolution of the board of directors of such district, when sold for a valuable consideration, shall convey good title to the property so conveyed. [Amendment approved April 22, 1909. Stats. 1909, p. 1075.]

ISSUANCE OF BONDS.

§ 30. For the purpose of constructing necessary irrigating canals and works, and acquiring the necessary property and rights therefor, and otherwise carrying out the provisions of this act, the board of directors of any such district, must, as soon after such district has been organized as may be practicable, and also whenever thereafter the construction fund has been exhausted by expenditures herein authorized therefrom and it is necessary to raise additional money for said purposes, estimate and determine the amount of money necessary to be raised. And thereafter said board when petitioned by a majority of the holders of title, or evidence of title, to lands within the district, such holders of title, or evidence of title, representing a majority in value of said lands according to the equalized assessment-roll of the district if such has theretofore been made, and if such has not been made, then according to the equalized county assessment-roll covering the lands of such district, shall immediately call a special election, at which shall be submitted to the electors of such district, possessing the qualifications prescribed by this act, the question whether or not the bonds of said district in the amount as set forth in said petition shall be issued. Notice of such election must be given by posting notices in three public places in each election precinct in said district for at least twenty days, and also by publication of such notice in some newspaper published in the county where the office of the board of directors of such district is required to be kept, once a week for at least three successive weeks. Such notices must specify the time of holding the election, the amount of bonds proposed to be issued; and said election must be held and the result thereof determined and declared in all respects as nearly as practicable in conformity with the provisions of this act governing the election of officers; provided, that no informalities in conducting such an election shall invalidate the same if the election shall have been otherwise fairly conducted. At such election the ballots shall contain the words "Bonds—Yes," or "Bonds—No," or words equivalent thereto. If a majority of the votes cast are "Bonds—Yes," the board of directors shall cause bonds in said amount to be issued; if a majority of the votes cast at any bond election are "Bonds—No," the result of such election shall be so declared and entered of record. Whenever thereafter a petition of the character hereinbefore provided for in this section is presented to the board it shall so declare of record in its minutes, and shall thereupon submit such

questions to said electors in the same manner and with like effect as at such previous election.

§ 31. All bonds issued under the provisions of this act shall be payable in gold coin of the United States, in ten series, as follows, to wit: At the expiration of twenty-one years five per cent of the whole number of said bonds; at the expiration of twenty-two years, six per cent; at the expiration of twenty-three years, seven per cent; at the expiration of twenty-four years, eight per cent; at the expiration of twenty-five years, nine per cent; at the expiration of twenty-six years, ten per cent; at the expiration of twenty-seven years, eleven per cent; at the expiration of twenty-eight years, thirteen per cent; at the expiration of twenty-nine years, fifteen per cent; and at the expiration of thirty years, sixteen per cent; that the several enumerated percentages being of the entire amount of the bond issue, but each bond must be made payable at a given time for its entire amount and not for a percentage. Said bonds shall bear interest at the rate of five per cent per annum, payable semi-annually, on the first day of January and July of each year. The principal and interest shall be payable at the place designated therein. Said bonds shall be each of the denomination of not less than one hundred dollars nor more than five hundred dollars; shall be negotiable in form, signed by the president and secretary, and the seal of the board of directors shall be affixed thereto. Each issue shall be numbered consecutively as issued, and the bonds of each issue shall be numbered consecutively, and bear date at the time of their issue. Coupons for the interest shall be attached to each bond, signed by the secretary. Said bonds shall express on their face that they were issued by authority of this act, stating its title and date of approval, and shall also so state the number of the issue of which such bonds are a part. The secretary shall keep a record of the bonds sold, their number, the date of sale, the price received, and the name of the purchaser.

§ 32. The board may sell said bonds from time to time in such quantities as may be necessary and most advantageous, to raise money for the construction of said canals and works, the acquisition of said property and rights, and otherwise to fully carry out the objects and purposes of this act. Before making any sale the board shall, at a meeting, by resolution, declare its intention to sell a specified amount of the bonds, and the day and hour and place of such sale, and shall cause such resolution to be entered in the minutes, and notice of the sale to be given, by publication thereof at least three weeks, in some newspaper published in the county where the office of the board of directors is located, and in any other newspaper, at its discretion. The notice shall state that sealed proposals will be received by the board at their office, for the purchase of bonds, till the day and hour named in the resolution. At the time appointed the board shall open the proposals, and award the purchase of the bonds to the highest responsible bidder; provided, however, that they may reject all bids. Said board shall in no event sell any of the said bonds for less than the par value thereof.

§ 33. Said bonds, and the interest thereon, shall be paid by revenue derived from an annual assessment upon the real property of the district; and all the real property in the district shall be and remain liable to be assessed for such payments, as hereinafter provided.

ASSESSMENT FOR COMPLETION OF WORKS.

§ 34. In case the money raised by the sale of bonds issued be insufficient or in case the bonds be unavailable for the completion of the plan of canal and works adopted, and additional bonds be not voted, it shall be the duty of the board of directors to provide for the completion of said plan by levy of assessments therefor; provided, however, that such levy of assessments shall not be made except first an estimate of the amount required for such purposes has been made by said board, and the question as to the making of said levy submitted to a vote of the electors of the district. Before such question is submitted the order of submission shall be entered in the minutes of the board, stating the amount to be levied and the purpose therefor, and if submitted at a special election said order shall, in addition, fix the day of election. Notice of such election must be given by posting notices in three public places in each election precinct in said district for at least twenty days, and also by publication of such notice in some newspaper published in the county where the office of the board of directors of such district is required to be kept, once a week for at least three successive weeks. Such notices must specify the time of holding the election, and the amount of assessment proposed to be levied. Said election must be held and the result thereof determined and declared in all respects as nearly as practicable in conformity with the provisions of this act governing the election of officers; provided, that no informalities in conducting such an election shall invalidate the same, if the election shall have been otherwise fairly conducted. At such election the ballots shall contain the words "Assessment—Yes," or "Assessment—No," or words equivalent thereto. If a majority of the votes cast are "Assessment—Yes," the board of directors shall cause an assessment in the amount named in the order of submission to be levied; if a majority of the votes cast are "Assessment—No," the result of such election shall be so declared and entered of record.

DUTIES OF THE ASSESSOR.

§ 35. The assessor must, between the first Monday in March and the first Monday in June, in each year, assess all real estate in the district, to the persons who own, claim or have possession or control thereof, at its full cash value, as follows: He must prepare an assessment-book, with appropriate headings, in which must be listed all such property within the district, in which must be specified, in separate columns, under the appropriate head: (1) the name of the person to whom the property is assessed. If the name is not known to the assessor, the property shall be assessed to "unknown owners"; (2) land by township, range, section or fractional section, and when such land is not a con-

gressional division or subdivision, by metes and bounds, or other description sufficient to identify it, giving an estimate of the number of acres and locality; (3) city and town lots, naming the city or town, and the number and block, according to the system of numbering in such city or town; (4) the cash value of real estate, other than city or town lots; (5) the cash value of city and town lots; (6) the total value of all property assessed; (7) the total value of all property after equalization by the board of directors; (8) such other things as the board of directors may require. Improvements on any lands or town lots within such district, shall be exempt from taxation for any of the purposes mentioned in this act. Any property which may have escaped the payment of any assessment for any year, shall, in addition to the assessment for the then current year, be assessed for such year with the same effect and with the same penalties as are provided for in such current year. (The term improvements as used in this section includes trees, vines, alfalfa and all growing crops and all buildings and structures of whatever class, or description erected or being erected upon said lands or city or town lots.) Provided that the provisions of this section relating to the exemption of improvements on any lands or town lots situated within the district shall be exempt from taxation, shall not apply in any district now organized unless said provision shall be approved by a vote of a majority of the resident holders of title to lands situated within the district and subject to taxation therein at a special election called for the purpose of making said provision herein applicable. [Amendment approved March 19, 1909. Stats. 1909, p. 461.]

§ 36. The board of directors must allow the assessor as many deputies, to be appointed by him, as will, in the judgment of the board, enable him to complete the assessment within the time herein prescribed. The board must fix the compensation of such deputies, which shall be paid out of the treasury of the district. The compensation must not exceed five dollars per day for each deputy, for the time actually engaged, nor must any allowance be made but for work done between the first Monday in March and the first Monday in August in each year.

§ 37. On or before the first Monday in August in each year, the assessor must complete his assessment book, and deliver it to the secretary of the board, who must immediately give notice thereof, and of the time the board of directors, acting as a board of equalization, will meet to equalize assessments, by publication in a newspaper published in each of the counties comprising the district. The time fixed for the meeting shall not be less than twenty nor more than thirty days from the first publication of the notice; and in the mean time the assessment-book must remain in the office of the secretary for the inspection of all persons interested.

EQUALIZATION OF ASSESSMENT.

§ 38. Upon the day specified in the notice required by the preceding section for the meeting, the board of directors, which is hereby con-

stituted a board of equalization for that purpose, shall meet and continue in session from time to time, as long as may be necessary, not to exceed ten days, exclusive of Sundays, to hear and determine such objections to the valuation and assessment as may come before them; and the board may change the valuation as may be just. The secretary of the board shall be present during its sessions, and note all changes made in the valuation of property, and in the names of the persons whose property is assessed; and within ten days after the close of the session he shall have the total values, as finally equalized by the board, extended into columns and added.

LEVY OF AND COLLECTION OF TAXES.

§ 39. The board of directors shall then levy an assessment sufficient to raise the annual interest on the outstanding bonds, and in any year in which any bonds shall fall due must increase such assessment to an amount sufficient to raise a sum sufficient to pay the principal of the outstanding bonds as they mature; also sufficient to pay in full the amount of any other contract or obligation of the district which shall have been reduced to judgment. The secretary of the board must compute and enter in a separate column of the assessment-book the respective sums in dollars and cents to be paid as an assessment on the property therein enumerated. When collected, the assessment shall be paid into the district treasury and be apportioned to the several proper funds.

In case of the neglect or refusal of the board of directors to cause such assessment and levies to be made as in this act provided, then the assessment of property made by the county assessor and the state board of equalization shall be adopted and shall be the basis of assessment for the district and the board of supervisors of the county in which the office of the board of directors is situated shall cause an assessment-roll for said district to be prepared, and shall make the levy required by this act, in the same manner and with like effect as if the same had been made by said board of directors, and all expenses incident thereto shall be borne by such district. In case of the neglect or refusal of the collector or treasurer of the district to perform the duties imposed by law, then the tax collector and treasurer of the county in which the office of the board of directors is situated must, respectively, perform such duties, and shall be accountable therefor upon their official bonds as in other cases. [Amendment approved February 22, 1909. Stats. 1909, p. 46. In effect immediately.]

§ 40. The assessment upon real property is a lien against the property assessed from and after the first Monday in March for any year, and the lien for the bonds of any issue shall be a preferred lien to that for any subsequent issue, and such lien is not removed until the assessments are paid, or the property sold for the payment thereof.

§ 41. On or before the first day of November, the secretary must deliver the assessment-book to the collector of the district, who shall within twenty days publish a notice, in a newspaper published in each

county in which any portion of the district may lie, that said assessments are due and payable, and will become delinquent at 6 o'clock P. M. on the last Monday of December next thereafter, and that unless paid prior thereto, five per cent will be added to the amount thereof, and also the time and place at which payment of assessments may be made, which notice shall be published for the period of two weeks. The collector must attend at the time and place specified in the notice, to receive assessments, which must be paid in gold and silver coin; he must mark the date of payment of any assessment in the assessment-book, opposite the name of the person paying, and give a receipt to such person, specifying the amount of the assessment and the amount paid, with a description of the property assessed. On the last Monday in December, at 6 o'clock P. M. of each year, all unpaid assessments are delinquent, and thereafter the collector must collect thereon, for the use of the district, an addition of five per cent.

PUBLICATION OF DELINQUENT NOTICE.

§ 42. On or before the first day of February, the collector must publish the delinquent list, which must contain the names of the persons and a description of the property delinquent, and the amount of the assessments and costs due opposite each name and description. He must append to and publish with the delinquent list a notice, that unless the assessments delinquent, together with costs and percentage, are paid, the real property upon which such assessments are a lien will be sold at public auction. The publication must be made once a week for three successive weeks, in a newspaper published in the county in which the property delinquent is situated; provided, that if any property assessed to the same person or corporation shall lie in more than one county, then such publication may be made in any county in which any portion of such property may lie. The publication must designate the time and place of sale. The time of sale must not be less than twenty-one nor more than twenty-eight days from the first publication, and the place must be at some point designated by the collector, within the district; provided, however, that if there should occur any error in the publication of the sale of the delinquent property, which might invalidate a sale made thereunder, and such error is discovered prior to sale thereunder the collector shall at once republish the sale of the property affected by such error, making such republication conform to the provisions of this law, and the time of sale designated in such republication must not be less than twenty-one nor more than twenty-eight days from the first republication; and the place of sale must be at some point designated by the collector within the district, and stated in such republication.

SALE FOR DELINQUENT TAXES.

§ 43. The collector must collect, in addition to the assessments due on the delinquent list and five per cent added, fifty cents on each lot, piece, or tract of land separately assessed. On the day fixed for the sale, or some subsequent day to which he may have postponed it, of which he

must give notice, the collector, between the hours of 10 A. M. and 3 o'clock P. M., must commence the sale of the property advertised, commencing at the head of the list and continuing alphabetically, or in the numerical order of the lots or blocks, until completed. He may postpone the day of commencing the sales, or the sale, from day to day, but the sale must be completed within three weeks from the day first fixed; provided, that if any sale or sales shall be stayed by legal proceedings, the time of the continuance of such proceedings is not part of the time limited for making such sale or sales; and provided further, that in any district where the validity of any assessment shall be in litigation at the time this act shall take effect, the sale of any property, whether it be involved in such litigation or not, may be postponed for a time not to exceed four months.

§ 44. The owner or person in possession of any real estate offered for sale for assessments due thereon may designate, in writing, to the collector, prior to the sale, what portion of the property he wishes sold, if less than the whole; but if the owner or possessor does not, then the collector may designate it and the person who will take the least quantity of the land, or in case an undivided interest is assessed, then the smallest portion of the interest, and pay the assessments and costs due, including two dollars for the duplicate certificate of sale, is the purchaser. If the purchaser does not pay the assessments and costs before 10 o'clock A. M. the following day, the property on the next sale day must be resold for the assessments and costs. But in case there is no purchaser in good faith for the same on the first day that the property is offered for sale, then, when the property is offered thereafter for sale, and there is no purchaser in good faith for the same, the whole amount of the property assessed shall be struck off to the irrigation district within which such lands are situated as the purchaser, and the duplicate certificate delivered to the treasurer of the district, and filed by him in his office. No charge shall be made for the duplicate certificate where the district is the purchaser, and, in such case, the collector shall make an entry, "Sold to the district," and he shall be credited with the amount thereof in his settlement. An irrigation district as a purchaser at such sale, shall be entitled to the same rights as a private purchaser, and the title so acquired by the district, subject to the right of redemption herein provided, may be conveyed by deed, executed and acknowledged by the president and secretary of said board; provided, that authority to so convey must be conferred by resolution of the board entered on its minutes, fixing the price at which such sale may be made, and such conveyance shall not be made for a less sum than the reasonable market value of such property.

§ 45. After receiving the amount of assessments and costs, the collector must make out in duplicate a certificate, dated on the day of sale, stating (when known) the name of the person assessed, a description of the land sold, the amount paid therefor, that it was sold for assessments, giving the amount and year of the assessment, and specifying the time

when the purchaser will be entitled to a deed. The certificate must be signed by the collector, and one copy delivered to the purchaser, and the other filed in the office of the county recorder of the county in which the land is situated.

§ 46. The collector, before delivering any certificate, must in a book enter a description of the land sold, corresponding with the description in the certificate, the date of the sale, purchasers' names, and amount paid, regularly number the description on the margin of the book, and put a corresponding number on each certificate. Such book must be open to public inspection, without fee, during office hours, when not in actual use. On filing the certificate with such county recorder the lien of the assessments vests with the purchaser, and is only divested by the payment to him, or to the collector for his use, of the purchase money, and two per cent per month from the day of sale until redemption.

REDEMPTION OF PROPERTY SOLD FOR DELINQUENT TAXES.

§ 47. A redemption of the property sold may be made by the owner, or any party in interest, within five years from the date of purchase, or at any time thereafter before a deed has been made and delivered. Redemption must be made in gold or silver coin, as provided for the collection of state and county taxes, and when made to the collector he must credit the amount paid to the person named in the certificate, and pay it, on demand, to the person or his assignees. In each report the collector makes to the board of directors, he must name the person entitled to redemption money, and the amount due each. On receiving the certificate of sale, the county recorder must file it and make an entry in a book similar to that required of the collector. On the presentation of the receipt of the person named in the certificate, or of the collector for his use, of the total amount of the redemption money, the recorder must mark the word "redeemed," the date, and by whom redeemed, on the certificate and on the margin of the book where the entry of the certificate is made. If the property is not redeemed within the time herein provided, the collector, or his successor in office, upon demand, must make to the purchaser, or his assignee, a deed of the property, reciting in the deed substantially the matters contained in the certificate, and that no person redeemed the property during the time allowed by law for its redemption; provided, that where property has been sold to the district it may be redeemed as herein provided, at any time before the district has disposed of the same. The collector shall receive from the purchaser, for the use of the district, two dollars for making such deed. [Amendment approved March 19, 1909. Stats. 1909, p. 429. In effect immediately.]

§ 48. The matter recited in the certificate of sale must be recited in the deed, and such deed duly acknowledged or proved is prima facie evidence that: (a) The property was assessed as required by law; (b) the property was equalized as required by law; (c) that the assessments were levied in accordance with law; (d) the assessments were not paid;

(e) at a proper time and place the property was sold as prescribed by law, and by the proper officer; (f) the property was not redeemed; (g) the person who executed the deed was the proper officer.

Such deed duly acknowledged or proved is (except as against actual fraud) conclusive evidence of the regularity of all the proceedings from the assessment by the assessor, inclusive, up to the execution of the deed. The deed conveys to the grantee the absolute title to the lands described therein free of all encumbrances, except when the land is owned by the United States, or this state, in which case it is prima facie evidence of the right of possession.

§ 49. The assessment-book or delinquent list, or a copy thereof, certified by the collector, showing unpaid assessments against any person, or property, is prima facie evidence of the assessment, the property assessed, the delinquency, the amount of assessments due and unpaid, and that all the forms of the law in relation to the assessment and levy of such assessments have been complied with.

§ 50. When land is sold for assessments correctly imposed, as the property of a particular person, no misnomer of the owner, or supposed owner, or other mistake relating to the ownership thereof affects the sale, or renders it void, or voidable.

§ 51. On the first Monday in each month, the collector must settle with the secretary of the board for all moneys collected for assessments, and pay the same over to the treasurer; and within six days thereafter he must deliver to and file in the office of the secretary a statement under oath, showing: (a) An account of all his transactions and receipts since his last settlement; (b) that all money collected by him as collector has been paid. The collector shall also file in the office of the secretary, on said first Monday in each month, the receipt of the treasurer for the money so paid.

REDEMPTION OF BONDS, AND PAYMENT OF INTEREST.

§ 52. Upon the presentation of the coupons due, to the treasurer, he shall pay the same from the bond fund. Whenever said fund shall amount to the sum of ten thousand dollars in excess of an amount sufficient to meet the interest coupons due, the board of directors may direct the treasurer to pay such an amount of said bonds not due as the money in said fund will redeem, at the lowest value at which they may be offered for liquidation, after advertising in the manner hereinbefore provided for the sale of bonds, for sealed proposals for the redemption of said bonds. Said proposals shall be opened by the board in open meeting, at a time to be named in the notice, and the lowest bid for said bonds must be accepted; provided, that no bond shall be redeemed at a rate above par. In case the bids are equal, the lowest numbered bond shall have the preference. In case none of the holders of said bonds shall desire to have the same redeemed, as herein provided for, said money shall be invested by the treasurer, under the direction of the

board, in United States bonds, or the bonds of the state, which shall be kept in said "bond fund," and may be used to redeem said district bonds whenever the holders thereof may desire.

CONSTRUCTION OF WORKS.

§ 53. After adopting a plan for such canal or canals, storage reservoirs, and works, as in this act provided for, the board of directors shall give notice by publication thereof not less than twenty days in one newspaper published in each of the counties composing the district (provided, a newspaper is published therein), and in such other newspapers as they may deem advisable, calling for bids for the construction of such work, or of any portion thereof; if less than the whole work is advertised, then the portion so advertised must be particularly described in such notice. Said notice shall set forth that plans and specifications can be seen at the office of the board, and that the board will receive sealed proposals therefor, and that the contract will be let to the lowest responsible bidder, stating the time and place for opening said proposals, which, at the time and place appointed, shall be opened in public; and as soon as convenient thereafter the board shall let said work, either in portions or as a whole, to the lowest responsible bidder; or they may reject any or all bids and readvertise for proposals, or may proceed to construct the work under their own superintendence. Contracts for the purchase of material shall be awarded to the lowest responsible bidder. Any person or persons to whom a contract may be awarded shall enter into a bond, with good and sufficient sureties, to be approved by the board, payable to said district for its use, for twenty-five per cent of the amount of the contract price, conditioned for the faithful performance of said contract. The work shall be done under the direction and to the satisfaction of the engineer, and be approved by the board.

§ 54. No claim shall be paid by the treasurer until allowed by the board, and only upon a warrant signed by the president, and countersigned by the secretary; provided, that the board may draw, from time to time, from the construction fund, and deposit in the county treasury of the county where the office of the board is situated any sum in excess of the sum of twenty-five thousand dollars. The county treasurer of said county is hereby authorized and required to receive and receipt for the same and place the same to the credit of said district, and he shall be responsible upon his official bond for the safekeeping and disbursement of the same, as in this act provided. He shall pay out the same, or any portion thereof, to the treasurer of the district only, and only upon the order of the board, signed by the president, and attested by the secretary. The said county treasurer shall report, in writing, on the second Monday in each month, the amount of money in the county treasury, the amount of receipts for the month preceding, and the amount or amounts paid out; said report shall be verified and filed with the secretary of the board. The district treasurer shall also report to the board, in writing, on the first Monday in each month, the amount of money in the district treasury, the amount of receipts for the month preceding, and the amount and

items of expenditures, and said report shall be verified and filed with the secretary of the board.

§ 55. The cost and expense of purchasing and acquiring property and constructing the works and improvements herein provided for, shall be wholly paid out of the construction fund. For the purpose of defraying the expenses of the organization of the district, and of the care, operation, management, repair, and improvement of such portions of such canal and works as are completed and in use, including salaries of officers and employees, the board may in lieu (either in part or in whole) of levying assessments as herein provided for, fix rates of tolls and charges, and collect the same from all persons using said canal for irrigation and other purposes.

§ 56. The board of directors shall have power to construct the said works across any stream of water, watercourse, street, avenue, highway, railway, canal, ditch, or flume which the route of said canal or canals may intersect or cross, in such manner as to afford security for life and property; but said board shall restore the same, when so crossed or intersected, to its former state as near as may be, or in a sufficient manner not to have impaired unnecessarily its usefulness; and every company whose railroad shall be intersected or crossed by said works shall unite with said board in forming said intersections and crossings, and grant the privileges aforesaid; and if such railroad company and said board, or the owners and controllers of the said property, thing, or franchise so to be crossed, cannot agree upon the amount to be paid therefor, or the points or the matter of said crossings or intersections, the same shall be ascertained and determined in all respects as is herein provided in respect to the taking of land. The right of way is hereby given, dedicated, and set apart, to locate, construct, and maintain said works over and through any of the lands which are now or may be the property of this state; and also there is given, dedicated, and set apart, for the uses and purposes aforesaid, all waters and water rights belonging to this state within the district.

GOVERNING DIRECTORS.

§ 57. The directors, when sitting as a board, or acting under the orders of the board, shall each receive not to exceed four dollars per day and ten cents per mile for each mile actually traveled from his place of residence to the office of the board, and actual and necessary expenses paid while engaged in official business under the order of the board. The board shall fix the compensation to be paid to all officers named in this act, to be paid out of the treasury of the district; provided, that said board shall, upon the petition of at least fifty, or a majority of the freeholders within such district, therefor, submit to the electors at any general election a schedule of salaries and fees to be paid hereunder. Such petition must be presented to the board not less than twenty days nor more than forty days prior to a general election, and the result of such election shall be determined and declared in all respects as other

elections are determined and declared under this act. [Amendment approved April 22, 1909. Stats. 1909, p. 1063.]

§ 58. No director or any other officer named in this act shall in any manner be interested, directly or indirectly, in any contract awarded or to be awarded by the board, or in the profits to be derived therefrom; and for any violation of this provision, such officer shall be deemed guilty of a misdemeanor, and such conviction shall work a forfeiture of his office, and he shall be punished by a fine not exceeding five hundred dollars, or by imprisonment in the county jail not exceeding six months, or by both such fine and imprisonment.

SPECIAL ASSESSMENTS.

§ 59. The board of directors may, at any time, when in their judgment it may be deemed advisable, call a special election and submit to the qualified electors of the district the question, whether or not a special assessment shall be levied for the purpose of raising money to be applied to any of the purposes provided in this act. Such election must be called upon the notice prescribed, and the same shall be held and the result thereof determined and declared in all respects in conformity with the provisions of section thirty of this act. The notice must specify the amount of money proposed to be raised and the purpose for which it is intended to be used. At such elections the ballots shall contain the words "Assessment—Yes," or "Assessment—No." If two thirds or more of the votes cast are "Assessment—Yes," the board shall, at the time of the annual levy hereunder, levy an assessment sufficient to raise the amount voted.

§ 60. The rate of assessments levied under the provisions of this act shall be ascertained by deducting fifteen per cent for anticipated delinquencies from the aggregate assessed value of the property in the district as it appears on the assessment-roll for the current year, and then dividing the sum voted by the remainder of such aggregate assessed value. The assessments so levied shall be computed and entered on the assessment-roll by the secretary of the board, and collected at the same time and in the same manner as other assessments provided for herein; and when collected shall be paid into the district treasury for the purposes specified in the notice of such special election.

INCURRING INDEBTEDNESS.

§ 61. The board of directors, or other officers of the district, shall have no power to incur any debt or liability whatever, either by issuing bonds or otherwise, in excess of the express provisions of this act; and any debt or liability incurred in excess of such express provisions shall be and remain absolutely void, except that for the purposes of organization, or for any of the purposes of this act, the board of directors may, before the collection of the first assessment, incur an indebtedness not exceeding in the aggregate the sum of two thousand dollars, and may cause warrants of the district to issue therefor, bearing interest at seven per cent per annum.

GOVERNING THE USE OF WATER.

§ 62. In case the volume of water in any stream or river shall not be sufficient to supply the continual wants of the entire country through which it passes, and susceptible of irrigation therefrom, then it shall be the duty of the water commissioners, constituted as hereinafter provided, to apportion, in a just and equitable proportion, a certain amount of said water upon certain or alternate weekly days to different localities, as they may, in their judgment, think best for the interest of all parties concerned, and with due regard to the legal and equitable rights of all. Said water commissioners shall consist of the chairman of the board of directors of each of the districts affected.

§ 63. It shall be the duty of the board of directors to keep the water flowing through the ditches under their control to the full capacity of such ditches in times of high water.

§ 64. Navigation shall never in any wise be impaired by the operation of this act, nor shall any vested interest in or to any mining water rights or ditches, or in or to any water or water rights, or reservoirs or dams now used by the owners or possessors thereof in connection with any mining industry, or by persons purchasing or renting the use thereof, or in or to any other property now used, directly or indirectly, in carrying on or promoting the mining industry, ever be affected by or taken under its provisions, save and except that rights of way may be acquired over the same.

§ 65. Nothing herein contained shall be deemed to authorize any person or persons to divert the waters of any river, creek, stream, canal, or ditch from its channel, to the detriment of any person or persons having any interest in such river, creek, stream, canal, or ditch, or the waters therein, unless previous compensation be ascertained and paid therefor, under the laws of this state authorizing the taking of private property for public uses.

EXEMPTION FROM TAXATION—CREATION OF FUNDS.

§ 66. The rights of way, ditches, flumes, pipe-lines, dams, water rights, reservoirs, and other property of like character, belonging to any irrigation district shall not be taxed for state and county or municipal purposes.

§ 67. The following funds are hereby created and established, to which the moneys properly belonging shall be apportioned, to wit: Bond fund, construction fund, general fund.

GENERAL PROVISIONS.

§ 68. The board of directors may, at any time after the issue of any bonds or the levy of any assessment herein provided for, bring an action in the superior court of the county wherein is located the office of such board, to determine the validity of any such bonds or such levy

of assessments; such action shall be in the nature of a proceeding in rem, and jurisdiction of all parties interested may be had by publication of summons for at least once a week for three weeks in some paper of general circulation published in the county where the action is pending, such paper to be designated by the court having jurisdiction of the proceedings. Jurisdiction shall be complete within ten days after the full publication of such summons in the manner herein provided. Anyone interested may at any time before the expiration of said ten days appear and by proper proceedings contest the validity of such bonds or assessments. Such action shall be speedily tried and judgment rendered declaring such matter so contested either valid or invalid. Either party may have the right to appeal to the supreme court at any time within thirty days after the rendition of such judgment, which appeal must be heard and determined within three months from the time of taking such appeal.

§ 69. If no such proceedings shall have been brought by the board of directors, then, at any time within thirty days after the levy of any assessment or issue of any bonds under the provisions of this act, any district assessment payer may bring an action in the superior court of the county where the office of the board of directors is located, to determine the validity of any such assessment or such bonds. The board of directors shall be made parties defendant, and service of summons shall be made on the members of the board personally. Said board shall have the right to appear and contest such action. Such action shall be speedily tried, with the right of appeal to either party, within the time and manner herein provided for the bringing of actions by the board to determine such matters. Such appeal shall be heard and determined in the manner and within the time therein provided.

§ 70. If more than one action shall be pending at the same time concerning similar contests in this act provided for, they shall be consolidated and tried together.

§ 71. The court hearing any of the contests herein provided for, in inquiring into the regularity, legality, or correctness of such proceedings, must disregard any error, irregularity, or omission which does not affect the substantial rights of the parties to said action or proceeding. The rules of pleading and practice provided by the Code of Civil Procedure, which are not inconsistent with the provisions of this act, are applicable to all actions or proceedings herein provided for. The motion for a new trial of any such action or proceeding must be heard and determined within ten days from the filing of the notice of intention. The costs on any hearing, or contest herein provided for, may be allowed and apportioned between the parties, or taxed to the losing party, in the discretion of the court.

§ 72. No contest of any thing or matter herein provided shall be made other than within the time and manner herein specified.

§ 73. For any willful violation of any express duty herein provided for, on the part of any officer herein named, he shall be liable upon his official bond, and be subject to removal from office, by proceedings brought in the superior court of the county wherein the office of the board of directors of the district is located, by any assessment payer of the district.

EXCLUSION OF LANDS.

§ 74. The boundaries of any irrigation district now organized or hereafter organized under the provision of this act, may be changed, and tracts of land which were included within the boundaries of such district at or after its organization under the provisions of said act, may be excluded therefrom, in the manner herein prescribed; but neither such change of the boundaries of the districts nor such exclusion of lands from the district shall impair or affect its organization, or its right in or to property, or any of its rights or privileges of whatever kind or nature; nor shall it affect, impair, or discharge any contract, obligation, lien, or charge for or upon which said district was and may become liable or chargeable, had such change of its boundaries not been made, or had not such land been excluded from the district.

§ 75. The owner or owners in fee of one or more tracts of land which constitute a portion of an irrigation district may jointly or severally file with the board of directors of the district a petition, praying that such tract or tracts, and any other tracts contiguous thereto, may be excluded and taken from said district. The petition shall state the grounds and reasons upon which it is claimed that such lands should be excluded and shall describe the boundaries thereof, and also the lands of such petitioner or petitioners which are included within such boundaries; but the description of such lands need not be more particular or certain than is required when the lands are entered in the assessment-book by the county assessor. Such petition must be acknowledged in the same manner and form as is required in the case of a conveyance of land, and the acknowledgment shall have the same force and effect as evidence as the acknowledgment of such a conveyance.

§ 76. The secretary of the board of directors shall cause a notice of the filing of such petition to be published for at least two weeks in some newspaper published in the county where the office of the board of directors is situated, and if any portion of such territory to be excluded lie within another county or counties, then said notice shall be so published in a newspaper published within each of said counties; or if no newspaper be published therein, then by posting such notice for the same time in at least three public places in said district, and in case of the posting of said notices, one of said notices must be so posted on the lands proposed to be excluded. The notice shall state the filing of such petition, the names of the petitioners, a description of the lands mentioned in said petition, and the prayer of said petition; and it shall notify all persons interested in, or who may be affected by such change of the boundaries of the district, to appear at

the office of said board at a time named in said notice, and show cause, in writing, if any they have, why the change of the boundaries of said district, as proposed in said petition, should not be made. The time to be specified in the notice at which they shall be required to show cause shall be the regular meeting of the board next after the expiration of the time for the publication of the notice.

§ 77. The board of directors, at the time and place mentioned in the notice, or at the time or times to which the hearing of said petition may be adjourned, shall proceed to hear the petition, and all evidence or proofs that may or shall be introduced by or on behalf of the petitioner or petitioners, and all objections to such petition that may or shall be presented in writing by any person showing cause as aforesaid, and all evidence and proofs that may be introduced in support of such objections. Such evidence shall be taken down in shorthand, and a record made thereof and filed with the board. The failure of any person interested in said district, other than the holders of bonds thereof outstanding at the time of the filing of said petition with said board, to show cause, in writing, why the tract or tracts of land mentioned in said petition should not be excluded from said district, shall be deemed and taken as an assent by him to the exclusion of such tract or tracts of land, or any part thereof, from said district; and the filing of such petition with said board, as aforesaid, shall be deemed and taken as an assent by each and all such petitioners to the exclusion from such district of the lands mentioned in the petition, or any part thereof. The expenses of giving said notice and of the aforesaid proceeding shall be paid by the person or persons filing such petition.

§ 78. If, upon the hearing of any such petition, no evidence or proofs in support thereof be introduced, or if the evidence fail to sustain said petition, or if the board deem it not for the best interests of the district that the lands, or some portion thereof, mentioned in the petition, should be excluded from the district, the board shall order that said petition be denied as to such lands; but if the said board deem it for the best interests of the district that the lands mentioned in the petition, or some portion thereof, be excluded from the district, and if no person interested in the district show cause, in writing, why the said lands, or some portion thereof, should not be excluded from the district, or if, having shown cause, withdraws the same, or upon the hearing fails to establish such objections as he may have made, then it shall be the duty of the board to, and it shall forthwith, make an order that the lands mentioned and described in the petition, or some defined portion thereof, be excluded from said district; provided, that it shall be the duty of said board to so order, upon petition therefor as aforesaid, that all lands so petitioned to be excluded from said district shall be excluded therefrom which cannot be irrigated from, or which are not susceptible to, or would not, by reason of being permanently devoted to uses other than agricultural, horticultural, viticultural, or graz-

ing, be directly benefited by the actual irrigation of the same from a common source, or by the same system of works with the other lands of said district, or from the source selected, chosen, or provided, or the system adopted for the irrigation of the lands of said district, or which are already irrigated or entitled to be irrigated, from another source or by another system of irrigation works. [Amended 1905. Stats. 1905, p. 27. In effect immediately.]

§ 79. If there be outstanding bonds of the district at the time of the filing of said petition, the holders of such outstanding bonds may give their assent, in writing, to the effect that they severally consent that the lands mentioned in the petition, or such portion thereof as may be excluded from said district by order of said board, or the decree of the superior court as hereinafter provided, may be excluded from the district; and if said lands, or any portion thereof, be thereafter excluded from the district, the lands so excluded shall be released from the lien of such outstanding bonds. The assent must be acknowledged by the several holders of such bonds in the same manner and form as is required in case of a conveyance of land, and the acknowledgment shall have the same force and effect as evidence as the acknowledgment of such conveyance. The assent shall be filed with the board, and must be recorded in the minutes of the board; and said minutes, or a copy thereof, certified by the secretary of said board, shall be admissible in evidence, with the same effect as the said assent, and such certified copy thereof may be recorded in the office of the county recorder of the county wherein said lands are situated.

§ 80. In the event the said board of directors shall exclude any lands from said district upon petition therefor, it shall be the duty of the board of directors to make an entry in the minutes of the board, describing the boundaries of the district, should the exclusion of said lands from said district change the boundaries of said district, and for that purpose the board may cause a survey to be made of such portions of the district as the board may deem necessary; and a certified copy of the entry in the minutes of the board excluding any land, certified by the president and secretary of the board, shall be filed for record in the recorder's office of each county within which are situated any of the lands of the district; but said district, notwithstanding such exclusion, shall be and remain an irrigation district as fully, to every intent and purpose, as it would be had no change been made in the boundaries of the district, or had the lands excluded therefrom never constituted a portion of the district.

§ 81. If the lands excluded from any district under this act shall embrace the greater portion of any division or divisions of such district, then the office of director for such division or divisions shall become and be vacant at the expiration of ten days from the final order of the board excluding said lands; and such vacancy or vacancies shall be filled by appointment by the board of supervisors of the county

where the office of such board is situated, from the district at large. A director appointed as above provided, shall hold his office until the next regular election for said district, and until his successor is elected and qualified.

§ 82. At least thirty days before the next general election of such district, the board of directors thereof shall make an order dividing said district into three or five divisions, as the case may require, as nearly equal in size as may be practicable, which shall be numbered first, second, third, and so on, and one director shall be elected by each division. For the purposes of elections in such district, the said board of directors must establish a convenient number of election precincts, and define the boundaries thereof, which said precincts may be changed from time to time, as the board of directors may deem necessary.

§ 83. A guardian and executor, or an administrator of an estate, who is appointed as such under the laws of this state, and who, as such guardian, executor, or administrator, is entitled to the possession of the lands belonging to the estate which he represents, may, on behalf of his ward, or the estate which he represents, upon being thereto properly authorized by the proper court, sign and acknowledge the petition in this act mentioned, and may show cause, as in this act provided, why the boundaries of the district should not be changed.

§ 84. Nothing in this act provided shall, in any manner, operate to release any of the lands so excluded from the district from any obligation to pay, or any lien thereon, of any valid outstanding bonds or other indebtedness of said district at the time of the filing of said petition for the exclusion of said lands, but upon the contrary, said lands shall be held subject to said lien, and answerable and chargeable for and with the payment and discharge of all of said outstanding obligations at the time of the filing of the petition for the exclusion of said land, as fully as though said petition for such exclusion were never filed and said order or decree of exclusion never made; and for the purpose of discharging such outstanding indebtedness, said lands so excluded shall be deemed and considered as part of said irrigation district the same as though said petition for its exclusion had never been filed or said order or decree of exclusion never made; and all provisions which may have been resorted to to compel the payment by said lands of its quota or portion of said outstanding obligations, had said exclusion never been accomplished, may, notwithstanding said exclusion, be resorted to to compel and enforce the payment on the part of said lands of its quota and portion of said outstanding obligations of said irrigation district for which it is liable, as herein provided. But said land so excluded shall not be held answerable or chargeable for any obligation of any nature or kind whatever, incurred after the filing with the board of directors of said district of the petition for the exclusion of said lands from the said district; provided,

that the provisions of this section shall not apply to any outstanding bonds, the holders of which have assented to the exclusion of such lands from said district, as hereinbefore provided.

INCLUSION OF LANDS.

§ 85. The boundaries of any irrigation district now organized or hereafter organized under the provisions of this act may be changed in the manner herein prescribed; but such change of the boundaries of the district shall not impair or affect its organization, or its rights in or to property, or any of its rights or privileges of whatsoever kind or nature; nor shall it affect, impair, or discharge any contract, obligation, lien, or charge for or upon which it was or might become liable or chargeable, had such change of its boundaries not been made.

§ 86. The holder or holders, of title, or evidence of title, representing one-half or more of any body of lands adjacent to the boundary of an irrigation district, which are contiguous, and which, taken together, constitute one tract of land, may file with the board of directors of said district a petition, in writing, praying that the boundaries of said district may be so changed as to include therein said lands. The petition shall describe the boundaries of said parcel or tract of land, and shall also describe the boundaries of the several parcels owned by the petitioners, if the petitioners be the owners, respectively, of distinct parcels, but such descriptions need not be more particular than they are required to be when such lands are entered by the county assessor in the assessment-book. Such petition must contain the assent of the petitioners to the inclusion within said district of the parcels or tracts of land described in the petition, and of which said petition alleges they are, respectively, the owners; and it must be acknowledged in the same manner that conveyances of land are required to be acknowledged.

§ 87. The secretary of the board of directors shall cause a notice of the filing of such petition to be given and published in the same manner and for the same time that notices of special elections for the issue of bonds are required by this act to be published. The notice shall state the filing of such petition and the names of the petitioners, a description of the lands mentioned in said petition, and the prayer of said petition; and it shall notify all persons interested in, or that may be affected by such change of the boundaries of the district, to appear at the office of said board, at a time named in said notice, and show cause in writing, if any they have, why the change in the boundaries of said district, as proposed in said petition, should not be made. The time to be specified in the notice at which they shall be required to show cause shall be the regular meeting of the board next after the expiration of the time for the publication of the notice. The petitioners shall advance to the secretary sufficient money to pay the estimated costs of all proceedings under this act.

§ 88. The board of directors, at the time and place mentioned in the said notice, or at such other time or times to which the hearing of said petition may be adjourned, shall proceed to hear the petition, and all the objections thereto, presented in writing by any person showing cause as aforesaid why said proposed change of the boundaries of the district should not be made. The failure by any person interested in said district, or in the matter of the proposed change of its boundaries, to show cause, in writing, as aforesaid, shall be deemed and taken as an assent on his part to a change of the boundaries of the district as prayed for in said petition, or to such a change thereof as will include a part of said lands. And the filing of such petition with said board, as aforesaid, shall be deemed and taken as an assent on the part of each and all of such petitioners to such a change of said boundaries in that they may include the whole or any portion of the lands described in said petition.

§ 89. The board of directors to whom such petition is presented, may require, as a condition precedent to the granting of the same, that the petitioners shall severally pay to such district such respective sums, as nearly as the same can be estimated (the several amounts to be determined by the board), as said petitioners or their grantors would have been required to pay to such district as assessments, had such lands been included in such district at the time the same was originally formed.

§ 90. The board of directors, if they deem it not for the best interests of the district that a change of its boundaries be so made as to include therein the lands mentioned in the petition, shall order that the petition be rejected. But if they deem it for the best interests of the district that the boundaries of said district be changed, and if no person interested in said district or the proposed change of its boundaries shows cause, in writing, why the proposed change should not be made, or if, having shown cause, withdraws the same, the board may order that the boundaries of the district be so changed as to include therein the lands mentioned in said petition or some part thereof. The order shall describe the boundaries as changed, and shall also describe the entire boundaries of the district as they will be after the change thereof as aforesaid is made; and for that purpose the board may cause a survey to be made of such portions of such boundary as is deemed necessary.

§ 91. If any person interested in said district, or the proposed change of its boundaries, shall show cause as aforesaid why such boundaries should not be changed, and shall not withdraw the same, and if the board of directors deem it for the best interests of the district that the boundaries thereof be so changed as to include therein the lands mentioned in the petition, or some part thereof, the board shall adopt a resolution to that effect. The resolution shall describe the exterior boundaries of the lands which the board are of the opinion should be included within the boundaries of the district when changed.

§ 92. Upon the adoption of the resolution mentioned in the last preceding section, the board shall order that an election be held within said district, to determine whether the boundaries of the district shall be changed as mentioned in said resolution; and shall fix the time at which such election shall be held, and cause notice thereof to be given and published. Such notice shall be given and published, and such election shall be held and conducted, the returns thereof shall be made and canvassed, and the result of the election ascertained and declared, and all things pertaining thereto conducted in the manner prescribed by said act in case of a special election to determine whether bonds of an irrigation district shall be issued. The ballots cast at said election shall contain the words "For change of boundary," or "Against change of boundary," or words equivalent thereto. The notice of election shall describe the proposed change of the boundaries in such manner and terms that it can readily be traced.

§ 93. If at such election a majority of all the votes cast at said election shall be against such change of the boundaries of the district, the board shall order that said petition be denied, and shall proceed no further in that matter. But if a majority of such votes be in favor of such change of the boundaries of the district, the board shall thereupon order that the boundaries be changed in accordance with said resolution adopted by the board. The said order shall describe the entire boundaries of said district, and for that purpose the board may cause a survey of such portions thereof to be made as the board may deem necessary.

§ 94. Upon a change of the boundaries of a district being made, a copy of the order of the board of directors ordering such change, certified by the president and secretary of the board, shall be filed for record in the recorder's office of each county within which are situated any of the lands of the district, and thereupon the district shall be and remain an irrigation district, as fully, and to every intent and purpose, as if the lands which are included in the district by the change of the boundaries, as aforesaid, had been included therein at the original organization of the district.

§ 95. Upon the filing of the copies of the order, as in the last preceding section mentioned, the secretary shall record in the minutes of the board the petition aforesaid; and the said minutes, or a certified copy thereof, shall be admissible in evidence, with the same effect as the petition.

§ 96. A guardian, an executor, or an administrator of an estate, who is appointed as such under the laws of this state, and who, as such guardian, executor, or administrator, is entitled to the possession of the lands belonging to the estate which he represents, may, on behalf of his ward, or the estate which he represents, upon being thereunto authorized by the proper court, sign and acknowledge the petition in this act mentioned, and may show cause, as in this act mentioned, why the boundaries of the district should not be changed.

§ 97. In case of the inclusion of any land within any district by proceedings under this act, the board of directors must, at least thirty days prior to the next succeeding general election, make an order re-dividing such district into three or five divisions, as the case may require, as nearly equal the size as may be practicable, which shall be numbered first, second, third, and so on, and one director shall thereafter be elected by each division. For the purposes of elections, the board of directors must establish a convenient number of election precincts in said districts, and define the boundaries thereof, which said precincts may be changed from time to time, as the board may deem necessary.

REDUCTION OF BONDED INDEBTEDNESS.

§ 98. Whenever the board of directors of an irrigation district heretofore organized, or hereafter organized under the provisions of this act, shall determine that the authorized bonded indebtedness of such irrigation district is greater than such district is liable to need to complete its system as planned, and there be no outstanding bonds, the board of directors may call a special election for the purpose of voting upon a proposition to reduce such bonded indebtedness to such sum as the board may determined to be sufficient for such purpose.

§ 99. Notice of the said election shall be given in the same manner as provided in section thirty of said act, in relation to calling special elections for issuance of bonds. The notice of election must state the amount of the authorized bonded indebtedness of such district, and the amount to which it is proposed to reduce the same; also, the date on which said election will be held, and the polling-places, as established, by said board of directors. The ballots cast at said election shall contain the words "For reducing bonds—Yes," or "For reducing bonds—No." When the vote is canvassed by the board of directors and entered of record, if a majority of the votes cast shall be "For reducing bonds—Yes," then in that event the board of directors shall only be empowered to issue or sell such amount of bonds as was stipulated in the said notice of such special election; but if a majority of said votes are not "For reducing bonds—Yes," then the authority to issue bonds shall remain the same as before said special election was held.

§ 99½. In case there be outstanding bonds of any district desiring to take advantage of the provisions of this act concerning reduction of bonded indebtedness, the assent of such bondholders may be obtained to such reduction of the bonded indebtedness, in the same manner as provided in section 79 of this act. If such assent is obtained in the manner therein provided, then, and in that event, such district shall be empowered to take advantage of all the provisions of this act, but not otherwise. No reduction of the bonded indebtedness, as in this act provided, shall in any manner affect any order of court that may have been made, adjudicating and confirming the validity of said bonds.

LEASE OF WATER.

§100. Whenever any irrigation district, heretofore organized, or hereafter organized under the provisions of this act, in the development of its works as by law provided, may have opportunity, without increased expenditure, to utilize the water by it owned or controlled, for mechanical purposes not inconsistent with the provisions of said act, the board of directors may lease the same, as in this act hereinafter provided.

§101. Whenever the board of directors may desire to lease the use of water, as hereinbefore stated, they shall pass a resolution of intention to so lease the same. Immediately thereafter the secretary shall cause notice of such intention to be given by publication in one newspaper published in each county in which lands of the district are situated, for at least twenty days (provided, a newspaper is published therein, otherwise in any newspaper the board of directors may select), and, if the board thinks proper in such other newspapers as may be deemed advisable, calling for bids for the leasing of said water for the purposes hereinbefore mentioned. Said notice shall state that the board will receive sealed proposals therefor, that the lease will be let to the highest responsible bidder, stating the time and place of opening said proposals.

§102. At the time and place appointed the board shall proceed to open the proposals in public. As soon thereafter as may be convenient the board shall let said lease in portions, or as a whole, to the highest responsible bidder, or they may reject any or all bids, and readvertise for proposals for the same.

§103. The rental accruing upon said lease may vary from year to year, as shall be specified in said lease, and shall be payable semi-annually, on the thirteenth day of December and thirtieth day of June of each year. All moneys collected, as in this act provided, shall be paid into the treasury, and be apportioned to such funds as may be deemed advisable.

§104. The board shall have power, as in this act provided, to execute a lease for any period not exceeding twenty-five years. If at any time the rental shall not be paid on the days hereinbefore mentioned, the amount of such rental then due shall be doubled, and if not paid within ninety days thereafter, the said lease shall be forfeited to said district, together with any and all works constructed, owned, used, or controlled by said lessee.

§105. Upon the letting of any lease, as in this act provided, the board may require the lessee to execute a bond for the faithful performance of the covenants of said lease, or give such other evidence of good faith as in their judgment may be necessary.

DESTRUCTION OF UNSOLD BONDS.

§ 106. Whenever there remains in the hands of the board of directors of any irrigation district heretofore organized, or organized under the provisions of this act, after the completion of its ditch system, and the payment of all demands against such district, any bonds voted to be issued by said district, but not sold, and not necessary to be sold for the raising of funds for the use of such district, said board of directors may call a special election for the purpose of voting upon a proposition to destroy said unsold bonds, or so many of them as may be deemed best, or may submit such proposition at a general election.

§ 107. Such election shall be held in the same manner as other elections held under the provisions of this act. A notice of such election shall be given in the same manner as provided in section thirty of this act in relation to calling special elections for the issuance of bonds. The notice of election must state the amount of the bonded indebtedness of such district authorized by the vote of the district, the amount of the bonds remaining unsold, and the amount proposed to be destroyed, and the date on which such election is proposed to be held, and the polling-places as fixed by the board of directors. The ballots to be cast at such election shall contain the words "For destroying bonds—Yes," and "For destroying bonds—No," and the voter must erase the word "No" in case he favors the destruction of bonds, otherwise the word "Yes."

§ 108. When the vote is canvassed by the board of directors and entered of record, if a two thirds majority of the votes cast should be found to be in favor of the destruction of said bonds, then the president of the board, in the presence of a majority of the members of the board, must destroy the bonds so voted to be destroyed; and the total amount of bonds so destroyed and canceled shall be deducted from the sum authorized to be issued by the electors of said district, and no part thereof shall thereafter be reprinted or reissued.

SAVING CLAUSES.

§ 109. Nothing in this act shall be so construed as to affect the validity of any district heretofore organized under the laws of this state, or its rights in or to property, or any of its rights or privileges of whatsoever kind or nature; but said districts are hereby made subject to the provisions of this act so far as applicable; nor shall it affect, impair, or discharge any contract, obligation, lien, or charge for, or upon which it was or might become liable or chargeable had not this act been passed; nor shall it affect the validity of any bonds which have been issued but not sold; nor shall it affect any action which now may be pending.

§ 110. Nothing in this act shall be construed as repealing or in any wise modifying the provisions of any other act relating to the subject

of irrigation or water commissioners, except such as may be contained in the act, an act entitled an act to provide for the organization and government of irrigation districts, and to provide for the acquisition of water and other property, and for the distribution of water thereby for irrigation purposes, approved March seventh, eighteen hundred and eighty-seven, and the subsequent acts supplementary thereto, and amendatory thereof, all of which acts, so far as they may be inconsistent herewith, are hereby repealed.

§111. This act shall take effect from and after its passage and approval.

ACT 1727.

An act to provide for the issue and sale or exchange of funding bonds of irrigation districts organized under and in pursuance of an act of the legislature of the state of California entitled "An act to provide for the organization and government of irrigation districts, and to provide for the acquisition of water and other property, and for the distribution of water thereby for irrigation purposes," approved March 7, 1887, to provide for the payment of such bonds, and for proceedings to test the validity of the same.

[Approved April 1, 1897. Stats. 1897, p. 394.]

Amended 1901, p. 514. Sections 5-10 repealed 1901, p. 514.

§1. Whenever an irrigation district organized, under the provisions of an act entitled "An act to provide for the organization and government of irrigation districts, and to provide for the acquisition of water and other property, and for the distribution of water thereby for irrigation purposes," approved March seventh, eighteen hundred and eighty-seven, or said act and the acts supplementary thereto, or amendatory thereof, has outstanding bonds, coupons, or other evidences of indebtedness, the payment thereof may be provided for by the issuance of new bonds, in the manner hereinafter prescribed.

§2. A majority in number of the holders of title, or evidences of title to real property in any irrigation district, subject to assessment, such holders of title, or evidences of title, representing a majority in value of the real property of such district according to the equalized assessment-roll or rolls of such district for the year last preceding, may propose the funding of such bonds, coupons, or other evidences of indebtedness. Said equalized assessment-roll or rolls shall be sufficient evidence of title for the purposes of this act.

§3. In order to propose the funding of such bonds, coupons, or other evidences of indebtedness, a petition shall be presented to the board of directors of such irrigation district, signed by a majority in number of holders of title, or evidences of title to real property in such district, and representing a majority in value of the real property of said district, subject to assessment for district purposes, which petition shall set forth the amount of bonds, coupons, or other evidences of in-

debtedness proposed to be funded, together with a general description of same, also the total amount of the bonds sought to be issued, that said amount shall in no case be greater than the amount of bonds, coupons, and other evidences of indebtedness outstanding and sought to have funded), together with a full and complete statement of the purposes for which such bonds are to be issued. On presentation of such petition, the same shall be entered in full on the minutes of the board.

§ 4. Immediately after the recording of said petition the board of directors shall call a special election, at which shall be submitted to the electors of such district the question whether or not the bonds of such district, in the amount set forth in said petition, shall be issued. Notice of such election must be given by the secretary of said district by posting notices in three public places in each election precinct of said district for at least twenty days, and also by publication of a notice in some newspaper published in the county, where the office of the board of directors of such district is required to be kept, once a week for at least three successive weeks before such election. Such notice must specify the time of holding the election, the amount of bonds proposed to be issued, the amount of bonds, coupons, or other evidences of indebtedness proposed to be refunded, together with a general description of the same. Said election shall be held and the result thereof determined and declared in all respects as nearly as practicable in conformity with the provisions governing the election of officers; provided by the law governing irrigation districts at the time of the holding of the election herein provided for; provided, that no informalities in conducting such an election shall invalidate the same, if the election shall have been otherwise fairly conducted. At such an election the ballot shall contain the words "Bonds—Yes" or "Bonds—No," or words equivalent thereto. If two-thirds of the votes cast at such election are "Bonds—Yes," the board of directors shall direct and cause bonds in said amount to be issued. If more than one-third of the votes cast at such election are "Bonds—No," the result of such election shall be so declared. The result in either case shall be duly entered of record. [Amendment approved March 16, 1901. Stats. 1901, p. 514. In effect immediately.]

§§ 5, 6, 7, 8, 9, 10. Repealed. [Act approved March 16, 1901. Stats. 1901, p. 515. In effect immediately.]

§ 11. If said bonds are directed to be issued as herein provided for, the board of directors shall cause the same to be issued. Said bonds shall be made payable in gold coin of the United States, and in twenty series, as follows, to wit: On the first day of January after the expiration of twenty years, five per cent of the whole amount of said bonds, and on the first day of January of each year thereafter, an equal amount of such bonds until all shall have been finally paid; that is, five per cent of the whole issue of bonds—not five per cent of each

bond—each being wholly payable when due. Said bonds shall bear interest at the rate of five per cent per annum, payable semi-annually on the first day of January and July of each year. They shall be negotiable in form, and shall be of denominations of not less than one hundred dollars, nor more than five hundred dollars. Said bonds shall in all respects conform to the form of bonds prescribed by the laws governing irrigation districts at the time of their issue, except as herein otherwise provided.

§ 12. It shall be unlawful to sell or exchange any of the bonds issued as herein provided, for less than their par value.

§ 13. When bonds issued under this act shall be duly executed, they shall be deposited with the treasurer of the district, and his receipt shall be taken therefor, and he shall be charged with the same on his official bond, and shall have no power to deliver the same in exchange for any bonds or indebtedness proposed to be funded until the bonds or evidence of indebtedness proposed to be funded shall have been surrendered to him, and he shall have been ordered by the board of directors of the district, by an order duly entered on their records, to make such delivery. When such bonds have been exchanged for other bonds, coupons, or other evidences of indebtedness, the treasurer shall at once cancel such other bonds, coupons, or other evidences of indebtedness by writing across the face thereof "Canceled," and the date of cancellation, and report the same with his monthly report to the board of directors of the district, designating the bond, coupon, or other evidence of indebtedness, so that it can be identified, the date of cancellation, and the person from whom it was received, together with the amount paid therefor, or the terms of exchange, in case there is an exchange.

§ 14. When said bonds are issued for the purpose of sale to the highest bidder, the board may sell said bonds from time to time, in such quantities as may be necessary and most advantageous, to raise money to pay bonds, coupons, or other evidences of indebtedness of the district which were outstanding at the time of the filing of said petition, and generally described therein. Before making any sale, the board shall at a meeting, by resolution, declare its intention to sell a specified amount of bonds, which resolution shall be entered in the minutes, and notice of the sale shall be given by publication thereof for at least three weeks in a newspaper published in the county in which the office of the board of directors is kept. The notice shall state that sealed proposals will be received by the board at its office for the purchase of bonds till the day and hour named in the resolution. At the time appointed the board shall open the proposals and award the purchase of bonds to the highest responsible bidder, or may reject all bids; but said bonds shall in no event be sold for less than their par value, including accrued interest. All moneys realized from the sale of bonds issued under the provisions of this act shall be paid into the hands of the

district treasurer, and by him kept in a separate fund, known as funding fund, and shall be applied exclusively to the payment of bonds, coupons, or other evidences of indebtedness of the district outstanding at the time of filing the said petition, and described therein.

§ 15. At the time fixed for the levying of assessments for other purposes authorized by the district irrigation law then in force, there shall be levied an assessment sufficient in amount to pay the principal and interest then due and unpaid on any bonds issued by authority of this act, and also the amount to become due on any such bonds during the next year following such levy. The assessment so levied shall be computed and entered in the assessment-roll in the same manner and shall be collected at the same time and in the same manner as other assessments authorized by the district irrigation law then in force, and when collected, shall be paid into the district treasury, for the purposes herein authorized; and all the provisions of said district irrigation law relating to the collection of assessments and the sale and redemption of property therefor shall be applicable to the assessments levied under this act.

§ 16. The bonds issued as herein provided for may be exchanged at not less than their par value, for any of the indebtedness set out and described in the notice of the election authorizing the issuance of said refunding bond. A contract for such exchange may be made by the board of directors upon such terms as said board may deem advisable, provided, that they must receive not less than the par value for the bonds so exchanged. [Amendment approved March 16, 1901. Stats. 1901, p. 515. In effect immediately.]

§ 17. Whenever there remains in the hands of the treasurer of any district any funding bonds voted to be issued by said district, but not used, and not necessary to be used for the funding purposes set out and described in the petition for the issuance of said bonds, then said board of directors, shall at a regular meeting, within three months after the completion of the funding, cause the same to be destroyed and a record to be made thereof, and the total amount of bonds so destroyed and canceled shall be deducted from the sum authorized to be issued by the electors of said district, and no part thereof shall be thereafter reprinted or reissued.

§ 18. Any bonds issued under the provisions of this act shall be a lien upon the real property of the district, and said bonds and the interest thereon shall be paid by revenue derived from an annual assessment upon the real property of the district, and all the real property in said district shall be and remain liable to be assessed for such payments as hereinbefore provided. [Amendment approved March 16, 1901. Stats. 1901, p. 515. In effect immediately.]

§ 19. This act shall take effect from and after its passage.

ACT 1728.

An act to provide for the redemption of property which has been heretofore sold to irrigation districts for delinquent assessments.

[Approved March 10, 1891. Stats. 1891, p. 53.]

§ 1. In all cases where property has heretofore been sold for delinquent assessments, under the provisions of the act of March seventh, eighteen hundred and eighty-seven, providing for the organization of irrigation districts, and an irrigation district has become the purchaser, and has not disposed of the same, the person whose estate has been sold, or his heirs, executors, administrators, or other successors in interest, may redeem such property by paying to the treasurer of the district wherein the property is situated the amount of assessments due thereon at the time of the sale, with interest thereon at the rate of two per cent per month; and also all assessments that were a lien upon said property at the time said assessments became delinquent; and also for each year since the sale for which assessments on said property have not been paid, an amount equal to the percentage of assessments for that year, upon the value of said real estate assessed for the year of the sale, with interest from the first day of January of each of said years, respectively, at the same rate; and also all costs and expenses, and fifty per cent penalty, which may have accrued by reason of such delinquency and sale, and the costs and expenses of redemption, as herein specified. The board of directors of any district shall, on the application of any person desiring to redeem under the provisions of this act, make an estimate of the amount to be paid, and shall, by a resolution entered on their minutes, authorize the treasurer of the district, on the receipt of the amount determined by them, to give him triplicate certificates of the amount, specifying the several amounts thereof, one of which certificates shall be filed with the secretary of the district, one with the county recorder of the county in which the land is situated, and one with the treasurer of the district, to whom payment of the money shall be made, on the issuance of said certificates. The county recorder shall be paid by the redemptioner, for filing and recording said certificate, the sum of two dollars, and upon the filing of such receipt with the recorder any deed or certificate of sale that may have been made to the district shall become null and void; and all right, title, and interest acquired by the district under and by virtue of the assessment sale shall cease and determine. The receipt of the treasurer of the district herein provided for shall be recorded in the recorder's office of the county in which said property is situated, in the book of deeds, and the record thereof shall have the same effect as that of a deed of reconveyance of the interest conveyed by said deed or certificate of sale.

§ 2. This act shall take effect immediately.

ACT 1729.

An act to provide for the leasing and disposition of water for generation of power for mechanical purposes, by irrigation districts organized or to be organized under and pursuant to an act entitled "An act to provide for the organization and government of irrigation districts, and to provide for the acquisition of water and other property, and for the distribution of water thereby for irrigation purposes," approved March 7, 1887.

[Approved March 23, 1893. Stats. 1893, p. 295.]

See Statutes of 1897, p. 254, §§ 100-105, ante, Act 1726.

§ 1. Whenever any irrigation district formed, or to be formed, under and pursuant to the provisions of an act entitled "An act to provide for the organization and government of irrigation districts, and to provide for the acquisition of water and other property, and for the distribution of water thereby for irrigation purposes," approved March seventh, eighteen hundred and eighty-seven, in the development of its works, as in said act provided, may have opportunity, without increased expenditure, to utilize the water by it owned or controlled for mechanical purposes not inconsistent with the provisions of said act, the board of directors may lease the same, as in this act hereinafter provided.

§ 2. Whenever the board of directors may desire to lease the use of water, as hereinbefore stated, they shall pass a resolution of intention to so lease the same. Immediately thereafter the secretary shall cause notice of such intention to be given by publication in one newspaper published in each county in which lands of the district are situated for at least twenty days (provided, a newspaper is published therein, otherwise in any newspaper the board of directors may select), and in such newspapers as may be deemed advisable, calling for bids for the leasing of said water for the purposes hereinbefore mentioned. Said notice shall state that the board will receive sealed proposals therefor, that the lease will be let to the highest responsible bidder, stating the time and place of opening said proposals.

§ 3. At the time and place appointed the board shall proceed to open the proposals in public. As soon thereafter as may be convenient the board shall let said lease in portions, or as a whole, to the highest responsible bidder, or they may reject any or all bids, and readvertise for proposals for the same.

§ 4. The rental accruing upon said lease may vary from year to year, as shall be specified in said lease, and shall be payable semi-annually, on the thirtieth day of December and thirtieth day of June of each year. All moneys collected, as in this act provided, shall be paid into the treasury, and be used in the manner provided in section 34 of said act, except that the period of ten years, as mentioned in said section 34, shall not be applicable to the provision of this act; provided, however, that if any coupons on any outstanding bonds of such district

are at any time due and payable, and there shall for any reason not be sufficient funds in the interest fund to pay the same, the proceeds so collected, as in this act provided, may be used to pay the same.

§ 5. The board shall have power, as in this act provided, to execute a lease for any period not exceeding fifty years. If at any time the rental shall not be paid on the days hereinbefore mentioned, the amount of such rental then due shall be doubled, and if not paid within ninety days thereafter, the said lease shall be forfeited to said district, together with any and all works constructed, owned, used, or controlled by said lessee.

§ 6. Upon the letting of any lease, as in this act provided, the board may require the lessee to execute a bond for the payment of the rental, and proper performance of the said lease, or give such other evidence of good faith as in their judgment may be necessary.

§ 7. This act shall take effect immediately.

AOT 1730.

An act declaring upon what terms contracts between persons, companies, associations, or corporations furnishing water for irrigation to the consumers of such water shall be valid, and to provide that such contracts shall be deemed based upon sufficient consideration.

[Approved March 16, 1901. Stats. 1901, p. 331.]

§ 1. It is and shall be lawful for any person, company, association, or corporation, furnishing for sale, rental, or distribution any appropriated waters for purpose of irrigation, to enter into contracts with individual consumers of such water or with bodies of such consumers, relating to the sale, rental or distribution of such water, or any thereof, which contracts, subject to the restrictions hereinafter declared, shall be valid to all intents and purposes, any law or rule to the contrary notwithstanding.

§ 2. No such contract shall provide for the sale, rental, or distribution of any such water at any rate exceeding the established rates fixed and regulated therefor by the board of supervisors of the proper counties, or fixed and established by such person, company, association, or corporation, as provided by law.

§ 3. Nothing in this act contained shall be construed to authorize or make valid any contract not made for a valuable consideration; but an agreement on the part of such person, company, association, or corporation to sell, rent, or distribute any water to a consumer, without payment in advance therefor, or upon any other terms to which such consumer is not otherwise lawfully entitled, shall be deemed and taken to be a valuable and sufficient consideration for such contract.

§ 4. Nothing in this act contained shall affect any contract made prior to the time that the board of supervisors fix and establish the

rates and regulations for and under which water shall be sold and applied.

§ 5. This act shall take effect and be in force from and after it sage.

ACT 1731.

An act to provide for the dissolution of irrigation districts, the maintenance and discharge of their indebtedness, and the distribution of their property.

[Approved February 10, 1903. Stats. 1903, p. 3.]

Amended 1909, p. 139.

§ 1. Any irrigation district organized under the provisions of an act entitled, "An act to provide for the organization and government of irrigation districts, and to provide for the acquisition of water and other property, and for the distribution of water thereby for irrigation purposes," approved March seven, eighteen hundred and eighty-seven, all acts supplementary thereto, or amendatory thereof, including an act entitled, "An act to provide for the organization and government of irrigation districts, and to provide for the acquisition or construction thereby of works for the irrigation of lands embraced within such districts, and, also, to provide for the distribution of water for irrigation purposes," approved March thirty-one, eighteen hundred and ninety-seven, may be dissolved in the manner hereinafter provided.

§ 2. A majority in number of the holders of title, or evidence of title to real property in any irrigation district, and a majority in value of said property according to the equalized assessment-roll of said district for the year last preceding upon which any assessment has been made, may propose the dissolution of said district by a petition signed by such majority, which petition shall set forth the amount of the outstanding bonds, coupons, and other indebtedness, if such there be, together with a general description of the same, and the holders, so far as known, showing the amount of each description of indebtedness and the ownership, so far as known, of the same. Also the estimated cost of the dissolution of said district. Said petition shall also state the assets of said district, including irrigation system, if any, dams, reservoirs, canals, franchises, water rights, a detailed statement of all the lands sold to the district for assessments, and the amount of the assessments on each parcel of land sold, also all assessments unpaid, and the amount upon each lot or tract of land, and all other assets of the district; and in case any proposition has been made by the holders of said indebtedness to settle the same, said proposition, together with any plan proposed to carry the same into execution, shall be included in said petition.

§ 3. Upon the filing of said petition with the board of directors of said district said board shall call a special election, at which shall be submitted to the electors of such district the question whether or not

said district shall be dissolved, its indebtedness liquidated, and its assets distributed in accordance with the plan so proposed, or in case no plan has been proposed, then in accordance with a plan which shall be proposed by said board of directors in the notice of the election, but no such election shall be called until the assent of all the known holders of valid indebtedness against the district shall be obtained or provision shall be made in said plan for the payment of such non-assenting holders. Notice of such election must be given by posting notices in three public places in each election precinct in said district for at least twenty days, and also by publication of such notice in some newspaper published in the county where the office of the board of directors is required to be kept, once a week for at least three successive weeks before such election. Such notices must specify the time of holding the election, the fact that it is proposed to dissolve the district, and a brief summary of the plan proposed for liquidating its indebtedness and disposing of its assets. Said election shall be held and the result thereof determined and declared in all respects as nearly as practicable in conformity with the provisions governing the election of officers in irrigation districts. At such election the ballot shall contain the words "Dissolution of the district—Yes," or "Dissolution of the district—No," or words equivalent thereto.

§ 4. In case upon such canvass it is found and declared by said board of directors that two-thirds of the votes cast at such election shall be cast in favor of "Dissolution of the district—Yes," then the said board of directors shall file a petition in the superior court of the county wherein is located the office of such board to determine the validity of the proceedings had and of the proposed plan for the dissolution of said district. Such action shall be in the nature of a proceeding in rem, and jurisdiction of all parties interested may be had by publication of a notice of the pendency of the proceeding for at least once a week for three weeks in some paper of general circulation published in the county where the action is pending; provided, that if the property of the district is situate in more than one county then the publication shall be made in one paper in each county wherein the same is situate, such paper or papers to be designated by the court having jurisdiction of the proceeding; jurisdiction shall be complete in thirty days after the completion of such notice in the manner herein provided. Anyone interested may at any time before the expiration of said thirty days appear and contest the validity of the proceedings already had and of the plan proposed for the dissolution of said district, or any portion thereof, including the validity of any portion of the indebtedness set out in said petition, and the court may determine the validity of any sales for assessments, and may determine the amount of any assessment or assessments due upon the various parcels and lots of real estate within said district, and may determine the amount of any assessment or assessments theretofore paid upon the various parcels and lots of real estate therein, and may in said proceeding adjust and determine the rights

and liabilities of all parties. Such action shall be speedily tried and judgment rendered. Either party shall have the right to appeal at any time within thirty days after the entering of such judgment, and the appeal must be heard and determined within three months after the taking of such appeal.

§5. Said petition to the superior court shall set forth the facts required to be set forth in the petition to the board of directors and all the proceedings therein, and at the hearing the court shall hear and determine the regularity, legality, and correctness of all proceedings, and in doing so shall disregard any error, irregularity, or omission which does not affect the substantial rights of the parties. The rules of pleading and practice in the Code of Civil Procedure not inconsistent with the provisions of this act are made applicable to the proceeding herein provided. The costs of any contest may be allowed and proportioned between the parties or taxed to the losing party in the discretion of the court, and no contest of any matter or thing herein provided for shall be made other than in the time and manner herein specified.

§6. If no such proceeding shall have been filed by the board of directors within thirty days after the canvass of said vote, then any district assessment payer may bring an action in the superior court of the county wherein the office of the board of directors is located. The board of directors shall be made parties defendant and notice shall be served on the members of the board personally, if they can be found in the state, if not, then service by publication as provided in section 4, shall be sufficient. Proceedings shall be had in the same manner and with the same effect as if brought by the board of directors.

§7. A corporation may be organized under general laws for the purpose of acquiring the assets of said district, including the irrigation system, if any, dams, reservoirs, canals, franchises and water rights, which corporation shall have all the powers, rights and franchises of corporate bodies organized under general laws, and in addition shall have such further powers as may be necessary to possess and carry on said irrigation system and exercise such franchise and water rights.

§8. The court in its decree shall have power to make the orders necessary to carry out said proposition for the discharge of the indebtedness and distribution of the property of said district, including the right to apportion any indebtedness found due, and to declare said portions liens upon the various parcels and lots of land within the district, and may decree a sale of its assets in such manner as may effectuate said proposition and as the said court may judge best, either in one lot or in such parcels as may be provided, and may provide for conveyance of said irrigation system, including dams, reservoirs, canals, franchises and water rights, and also of any other assets of the district, including lands sold thereto and the assessments due it.

§ 9. The amounts of any assessment or assessments found due upon the various parcels and lots of real estate within said district, and the amounts for which sales have been made, which sales have been determined to be valid by said court, together with legal interest from the date of said sales and from the time when said assessments become delinquent, shall be liens respectively on the lots and parcels affected thereby, and the purchaser or purchasers at said sale may foreclose the same by action in the superior court, and shall in said action join all lots, assessments, and sales which may have been purchased by him and which remain unredeemed. A redemption may be made at any time by payment of the amount due to the clerk of the court for the use of the district if before sale, and for the use of the purchaser if after sale, and the clerk shall thereupon enter a minute of said payment, which payment shall be in the discharge of said lien. Redemption from the lien created for any portion of the indebtedness can be had in this manner.

§ 10. Whenever all the property of such irrigation district shall have been disposed of, and all the indebtedness and obligations thereof, if any there be, shall have been discharged, the balance of the money of said district shall be distributed to the assessment payers in said district upon the last assessment-roll in the proportion in which each has contributed to the total amount of said assessment, and the court shall enter a final decree declaring said district to be dissolved.

§ 10½. In the petition mentioned in section 2 of this act it shall not be necessary to include in the schedule of indebtedness any bond, coupon, warrant or other indebtedness, claim or demand which shall have been barred by the laws of this state prior to the filing of said petition with the board of directors of said irrigation district, nor shall it be necessary in winding up the affairs of any district organized under the laws of this state to pay all or any portion of a debt or obligation of such district, for the enforcement of which debt or obligation a suit is barred by the laws of this state. [New section approved March 3, 1909. Stats. 1909, p. 189.]

§ 11. This act shall take effect immediately.

ACT 1732.

An act to permit boards of directors of irrigation districts organized or existing under and by virtue of an act of the legislature, entitled "An act to provide for the organization and government of irrigation districts, and to provide for the acquisition or construction thereby of works for the irrigation of the lands embraced within such districts, and also to provide for the distribution of water for irrigation purposes," approved March 31, 1897; to provide for the payment in two installments of the assessments levied under and in accordance with the provisions of said act.

[Approved March 19, 1909. Stats. 1909, p. 415.]

§1. It shall be lawful for boards of directors of irrigation districts, organized or existing under or by virtue of an act of the legislature, entitled "An act to provide for the organization and government of irrigation districts, and to provide for the acquisition or construction thereby of works for the irrigation of lands embraced within such districts and also, to provide for the distribution of water for irrigation purposes"; approved March 31st, 1897; to provide for the payment of assessments levied in accordance with the provision of said act, in two installments.

§2. The directors of any such irrigation district may, whenever they shall so determine, and must upon a petition in writing, signed by a majority of the assessment payers within such district, pass a resolution providing that thereafter all assessments, except special assessments provided for by section 34 of said act of 1897, shall be payable in two installments, and in said resolution shall specify when such payments may be made.

§3. Such resolution must be passed before the first Monday in August, and cannot be rescinded to take effect during any year after the first Monday of March in that year.

§4. Whenever the board of directors of such irrigation district shall have so determined, thereafter one-half of the assessments levied within such district shall become delinquent at 6 o'clock P. M. on the last Monday of December, and one-half thereof shall become delinquent at 6 P. M. on the last Monday of June next thereafter, provided that where an assessment has been levied as provided in section 34 of said act the whole of such assessment shall become delinquent on the last Monday in December.

§5. When provision is made, as herein provided, for the payment of said assessments in two installments, the publication of the delinquent list provided for in said act, shall not be made before the first day of July, but must be made on or before the first day of August, and except as otherwise herein provided all of the provisions of said irrigation act or acts not inconsistent with this act relative to the assessment, payment and collection of assessments, notice of assessments, publication of delinquent list, and sale for delinquent assessment, and all other provisions relative to such assessments shall be applicable, and the only effect of this act shall be to permit the payment of such assessments in two installments, and to postpone the notice of sale and sale provided for in said act until after the first day of July, and when sale is made at the time herein specified it shall have the same effect as though made at the time and in the manner specified in said act of 1897.

TITLE 242.
JAPANESE.

ACT 1733.

An act to provide for the gathering, compiling, printing and distribution of statistics and information regarding the Japanese of the state, and making an appropriation therefor. [Approved March 8, 1909. Stats. 1909, p. 227.]

This act provided for the gathering of statistics by the state labor commissioner and appropriated \$10,000 to carry out the purpose of the act.

ACT 1734.

An act to aid in the carrying out of the provisions of an act entitled, "An act to provide for the gathering, compiling, printing and distribution of statistics and information regarding the Japanese of the state, and making an appropriation therefor," making it the duty of certain officers to keep certain records and furnish such statistics and information. [Approved March 25, 1909. Stats. 1909, p. 719.]

This act required officers to keep records.

TITLE 243.
JEWISH ORDER OF KESHER SHEL BARSEL.

ACT 1736.

Concerning ancient Jewish order of Keshar shel Barsel. [Stats. 1867-68, p. 201.]

Repealed, § 288, Civil Code.

This act conferred corporate powers on the above order.

TITLE 244.
JUDGES OF THE PLAINS.

ACT 1741.

Concerning judges of the plains and defining their duties. [Stats. 1851, p. 515.]

Amended 1857, p. 158; 1863, p. 497.

Continued in force by codes: Penal Code, § 23, and Political Code, § 19.

TITLE 245.
JUDGMENTS.

ACT 1746.

An act to provide for the payment of judgments against counties, cities, cities and counties, and towns.

[Approved March 23, 1901. Stats. 1901, p. 794.]

§ 1. All final judgments now existing or that may be obtained hereafter against any county, city and county, city, or town of the state of

California, shall be paid by the treasurer of such county, city and county, or town, as hereinafter provided.

§ 2. It shall be the duty of the county clerk to file with the auditor and to furnish the board of supervisors, town trustees, or other board or body authorized by law to levy taxes, a complete list of all existing final judgments against such county, city and county, city, or town, of record in his office, at least fifteen days before the day on which any tax levy must by law be made.

§ 3. It shall be the duty of the auditor to examine and audit the final judgments so reported by the county clerk, and to certify the amount of such final judgments to the treasurer within five (5) days from the day on which such list of final judgments is filed with him. Thereupon, the board of supervisors, city council, town trustees, or other board of officers, as the case may be, having authority to levy taxes upon the taxable property of such county, city and county, city, or town, must include in the tax levy for the next fiscal year a rate or sum sufficient to pay all final judgments existing against such county, city and county, city, or town. The omission to include the amount of any existing final judgment in the tax levy for any year, shall not of itself invalidate the tax levy as made, but such omission or omissions must be included in the next tax levy; provided, that the board of supervisors or other board or officers having authority to levy taxes may provide for the payment of such final judgments when so audited by including in the tax levy for the next fiscal year an aliquot part or fraction of the amount of such judgments, and thereupon the treasurer shall pay to each judgment creditor a like aliquot part or fraction of the amount of the judgment of the creditor, and thereafter a like aliquot part or fraction of the amount of such judgments shall be levied and paid each successive year until the whole thereof shall be fully paid; but such fractional levy and payment shall in no case be less than one-tenth (1/10) of the whole amount of such judgments.

§ 4. This act shall take effect immediately.

AOT 1747.

An act prescribing how judgments which may be recovered against any city and county of over one hundred thousand population shall be paid.

[Approved March 26, 1895. Stats. 1895, p. 163.]

§ 1. All existing judgments against any city and county of over one hundred thousand population shall be paid by the treasurer of such city and county, out of the or any general fund thereof, after the same shall have been audited by the auditor, auditing officer, board, or other auditing officer or officers, and it is hereby made the duty of the board of supervisors and mayor of such city and county to include in the tax levy for any fiscal year a sum sufficient to pay existing judgments.

§ 2. This act shall take effect and be in force immediately after its passage.

Apparently restricted to existing judgments.

TITLE 248.

JURORS.

ACT 1752.

For the payment of the fees due to trial jurors who have served as such in the superior court of any county or city and county of this state, under the act of 1895. [Stats. 1901, p. 684.]

TITLE 247.

JUSTICES OF THE PEACE.

ACT 1757.

Fixing the jurisdiction and providing the compensation of justices of the peace in cities and towns. [Stats. 1883, p. 63.]

Superseded by Code of Civil Procedure, § 108, as amended 1901, p. 100.

This act appears in full in Code of Civil Procedure, Appendix, p. 862.

ACT 1758.

An act to provide for the amount and the manner of payment of salaries of justices of the peace in counties of the tenth class for services rendered by them in criminal cases, and providing a method of ascertaining the population of the townships for the purpose of this act and to provide a cashier in the office of the tax collector, and a file clerk in the office of the county clerk, and repealing all laws in conflict therewith.

[Approved March 19, 1903. Stats. 1903, p. 217.]

§ 1. In counties of the tenth class justices of the peace shall receive as compensation, for the services required of them by law, the following monthly salaries to be paid each month as salaries of other county officers are paid, which shall be in full for all services rendered by them in criminal cases:

In townships having a population of six thousand and over, ninety dollars per month.

In townships having a population of two thousand and less than six thousand, seventy-five dollars per month.

In townships having a population of one thousand five hundred and less than two thousand, fifty-five dollars per month.

In townships having a population of eight hundred and less than one thousand five hundred, thirty-five dollars per month.

In townships having a population of five hundred and less than eight hundred, twenty dollars per month.

In townships having a population less than five hundred, fifteen dollars per month.

In addition to the above salaries each justice of the peace shall collect, for his own use, in civil cases, such fees as are now or may hereafter be allowed by law.

§ 2. The population of townships shall, for the purpose of this act, be determined by multiplying the number of voters registered in such township at the last preceding election, by five.

§ 3. All laws and parts of laws in conflict with the provisions of this act are hereby repealed.

§ 4. In the office of the county tax-collector of counties of the tenth class there shall be a cashier to be appointed by and hold office at the pleasure of the county tax-collector, and the compensation of such cashier shall be nine hundred dollars per annum.

§ 5. In the office of the county clerk of counties of the tenth class a filing clerk shall be appointed by and hold office at the pleasure of the county clerk, and the compensation of such filing clerk shall be nine hundred dollars per annum.

§ 6. This act shall take effect and be in force from and after its passage.

Compare § 4289, Political Code, relating to salaries in counties of tenth class.

ACT 1759.

An act to provide for the employment of a clerk by certain justices of the peace and to pay the salaries of such clerk.

[Approved April 15, 1909. Stats. 1909, p. 906.]

§ 1. In cities of this state, where there are two justices of the peace, one of whom is the city justice of said city, and who is paid a salary and who is provided with a clerk and courtroom by said city and the other justice known as the township justice and whose compensation in civil cases is by fee and who is paid a salary by the county, in lieu of fees for all criminal cases that the district attorney may try or examine in said township justice's court, the justice of the peace in and for said township justice's court is hereby entitled to and may appoint a clerk subject to the approval of the board of supervisors of the county to properly keep the records of his court and to do and perform such other work as the justice of said court may assign to such clerk.

§ 2. The clerk of said township justice's court shall be paid an annual salary of twelve hundred dollars, to be paid monthly by the county in which said justice's court shall be located; said clerk's salary shall be audited, allowed and paid as the salaries of county officers are audited, allowed and paid.

**TITLE 248.
JUTE GOODS.**

ACT 1763.

Appropriation for the establishment of a permanent fund for the purchase of jute to be manufactured at the state's prison. [Stats. 1885, p. 53.]

Amended 1889, p. 223. See 1907, p. 169; 1907, p. 357.

ACT 1764.

Fixing the price and conditions of sale at which jute goods shall be sold by the state. [Stats. 1893, p. 54.]

Amended 1905, p. 532. Repealed 1907, p. 358.

ACT 1765.

An act authorizing the state board of prison directors to fix the price, terms and conditions of sale at which jute bags should be sold for the state, providing for the prosecution and punishment for offenses under the same, and repealing certain acts. [Approved March 10, 1909. Stats. 1909, p. 280.]

ACT 1766.

An act to authorize and empower the state board of prison directors to insure jute and jute goods against either fire or marine loss and to pay the cost of such insurance from the revolving fund for the purchase of jute. [Approved March 10, 1909. Stats. 1909, p. 281.]

ACT 1767.

An act making an appropriation to be used under the provisions of an act entitled "An act amending an act making an appropriation for the establishment of a permanent fund for the purchase of jute to be manufactured at the State Prison at San Quentin, approved March 9, 1885," approved March 16, 1889. [Approved March 8, 1907. Stats. 1907, p. 169.]

The act appropriated \$100,000 for the purpose indicated.

ACT 1768.

An act fixing the price, terms and conditions of sale at which jute goods shall be sold by the state, and providing for prosecution of and punishment for offenses under the same. [Approved March 22, 1907. Stats. 1907, p. 357.]

**TITLE 249.
JUVENILE COURT.**

ACT 1769.

Defining and providing for the control, protection, and treatment of dependent and delinquent children; prescribing the powers and duties of courts with respect thereto; providing for the appointment of pro-

bation officers, and prescribing their duties and powers; providing for the separation of children from adults when confined in jails or other institutions; providing for the appointment of boards to investigate the qualifications of organizations receiving children under this act, and prescribing the duties of such boards; and providing when proceedings under this act shall be admissible in evidence. [Approved February 26, 1903. Stats. 1903, p. 44. Amended 1905, p. 806; 1907, p. 777. Repealed 1909, pp. 213, 226.]

Citations. App. 8/740.

ACT 1770.

An act concerning dependent and delinquent minor children, providing for their care, custody and maintenance until twenty-one years of age; providing for their commitment to the Whittier State School and the Preston State School of Industry, and the manner of such commitment and release therefrom, establishing a probation committee and probation officers to deal with such children, and fixing the salaries of probation officers; providing for detention homes for said children; providing for the punishment of persons responsible for, or contributing to, the dependency or delinquency of children; and giving to the superior court jurisdiction of such offenses, and repealing inconsistent acts. [Approved March 8, 1909. Stats. 1909, p. 213.]

This act appears in full in Penal Code, Appendix, p. 811.

TITLE 250.

KAWEAH RIVER.

ACT 1774.

Board of commissioners for Kaweah River, Tulare County. [Stats. 1863-64, p. 167.]

Amended 1865-66, p. 314.

TITLE 251.

KEEPER OF ARCHIVES.

ACT 1779.

To provide for the appointment by the secretary of state of a keeper of archives, and define his duties, and fixing his salary. [Stats. 1889, p. 451.]

See Act 3585, post.

TITLE 252.

KERN COUNTY.

ACT 1784.

Assessor, act fixing salary and bond of. [Stats. 1875-76, p. 172.]

Superseded by County Government Act, 1897, p. 535, § 182.

ACT 1785.

Issuance of bonds by, to pay the indebtedness of said county. [Stats. 1875-76, p. 645.]

ACT 1786.

County auditor and county recorder, separation of offices of, and regulation of official salaries in. [Stats. 1875-76, p. 151.]

Amended 1875-76, p. 868; 1877-78, p. 104. Repealed by County Government Act, 1897, p. 585, § 182.

ACT 1787.

Transfer of funds of. [Stats. 1873-74, p. 472.]

Amended 1875-76, p. 249. Superseded by subd. 18, § 25, County Government Act, 1897, p. 468.

ACT 1788.

Regulating traveling fees of sheriff of. [Stats. 1871-72, p. 141.]

Amended 1875-76, p. 45. Repealed 1878, p. 559.

ACT 1789.

Traveling fees of sheriffs of. [Stats. 1877-78, p. 559.]

Repealed by fee bill of 1895, p. 269.

ACT 1790.

To provide one additional judge of the superior court of the county of Kern. [Approved February 17, 1903. Stats. 1903, p. 30.]

ACT 1791.

Tax collectors, bonds of. [Stats. 1875-76, p. 16.]

Repealed by County Government Act, 1897, p. 475, § 66.

ACT 1792.

Treasurer of, salary of. [Stats. 1873-74, p. 236.]

Amended 1877-78, p. 255. Repealed by County Government Act, 1897, p. 452.

ACT 1793.

Water ditches and water privileges in. [Stats. 1875-76, p. 547.]

TITLE 253.**KEYES CREEK.****ACT 1798.**

Arroyo del San Antonio (Keyes Creek), declared navigable. [Stats. 1860, p. 126; amended 1873-74, p. 564.]

See Political Code, § 2349.

TITLE 254.**KINGS COUNTY.****ACT 1803.**

To create the county of Kings, to define the boundaries thereof, to fix the county seat thereof, and to provide for its organization and election of officers, and to classify said county. [Approved March 22, 1893. Stats. 1893, p. 176.]

Citations. Cal. 152/228.

TITLE 255.
KLAMATH COUNTY.

ACT 1808.

Annexed to Humboldt and Siskiyou. [Stats. 1873-74, p. 755.]
Amended and supplemented 1875-76, p. 603.

TITLE 256.
KLAMATH RIVER.

ACT 1813.

To declare the Klamath River navigable. [Stats. 1880, p. 136.]
Repealed 1891, p. 10.

TITLE 257.
KNIGHT'S LANDING.

ACT 1818.

To prevent hogs and goats running at large in. [Stats. 1871-72, p. 438.]
Probably repealed by § 9, statute of 1897, p. 198.

TITLE 258.
LABORERS.

Hours of labor: See tit. "Hours of Labor," ante.

ACT 1823.

To protect the wages of labor. [Stats. 1867-68, p. 213.]
Amended 1871-72, p. 205.
This act made laborers preferred creditors. It was superseded by the Code of Civil Procedure, §§ 1204-1207.

TITLE 259.
LABOR STATISTICS.

ACT 1827.

An act directing the commissioner of the bureau of labor statistics to collect certain statistics, and present them in biennial reports, and making it the duty of certain officers to furnish such statistics in compliance with the provisions of this act.
[Approved March 18, 1905. Stats. 1905, p. 109.]

§ 1. The commissioner of the bureau of labor statistics is hereby directed, in addition to his other duties, to collect and present in his biennial report to the legislature, statistics relating to marriage, divorce, and crime.

§ 2. It is hereby declared to be the duty of all officers of each respective county, city, or city and county, in addition to their other duties, whose duty it is to keep a record of marriage, divorce, or crime, and they must furnish to the commissioner of the bureau of labor statistics, upon

his request, whatever data it may be necessary for said commissioner to acquire in complying with the provisions of section one of this act.

§3. This act shall take effect and be in force immediately upon its passage and approval.

ACT 1828.

To establish and support a bureau of labor statistics. [Stats. 1883, p. 27.]

Amended 1889, p. 6; 1901, p. 12; 1907, p. 806; 1909, p. 86.

TITLE 260.

LABOR UNIONS.

ACT 1830.

An act to prevent persons from unlawfully wearing the button of any labor union of this state. [Approved March 20, 1909. Stats. 1909, p. 546.]

This act appears in full in Penal Code, Appendix, p. 882.

ACT 1831.

An act to prevent persons from unlawfully using a union card. [Approved March 22, 1909. Stats. 1909, p. 668.]

This act appears in full in Penal Code, Appendix, p. 832.

TITLE 261.

LAKE BIGLER.

ACT 1833.

To legalize the name of Lake Bigler. [Stats. 1869-70, p. 64.]

TITLE 262.

LAKE COUNTY.

ACT 1838.

Authorizing issuance of bonds by, to pay a judgment against the county. [Stats. 1875-76, p. 209.]

Amended 1875-76, p. 405.

ACT 1839.

Concerning salary of district attorney. [Stats. 1871-72, p. 441.]

Repealed by County Government Act, 1897, p. 562, § 208.

ACT 1840.

Transfer and loan of certain funds in. [Stats. 1873-74, p. 349.]

ACT 1841.

Fees and salaries of officers of. [Stats. 1875-76, p. 599.]

Amended 1877-78, p. 256. Repealed by County Government Act, 1897, p. 652, § 208.

ACT 1842.

Roads and highways in. [Stats. 1875-76, p. 385.]

Repealed 1888, p. 5, c. X, § 2.

ACT 1843.

Restricting sheep from being herded or running at large in certain parts of. [Stats. 1873-74, p. 434.]

Amended 1875-76, p. 312. Probably repealed 1897, p. 198.

ACT 1844.

To prevent sheep and goats from being herded or from running at large in parts of. [Stats. 1877-78, p. 685.]

Probably repealed 1897, p. 198.

ACT 1845.

Authorizing supervisors to levy special tax for extermination of squirrels in. [Stats. 1877-78, p. 441.]

Superseded by subd. 26, § 25, County Government Act, 1897, p. 465.

TITLE 263.**LAKE EARL.****ACT 1850.**

Lake Earl, declaring navigable. [Stats. 1873-74, p. 59.]

Repealed 1901, p. 8.

ACT 1851.

An act to provide for permanently draining Lake Earl in Del Norte County, and making an appropriation therefor. [Approved March 11, 1907. Stats. 1907, p. 207.]

TITLE 264.**LAKEPORT.****ACT 1855.**

To prevent hogs from running at large in. [Stats. 1877-78, p. 435.]

Probably repealed by 1897, p. 198.

TITLE 265.**LAKES.****ACT 1858.**

An act authorizing the United States government to lower the water levels of any or all of the following lakes: Lower or Little Klamath Lake, Tule or Rhett Lake, Goose Lake, and Clear Lake, situated in Siskiyou and Modoc counties, and to use any part or all of the beds of said lakes for the storage of water in connection with the irrigation and reclamation operations conducted by the Reclamation Serv-

ice of the United States; also ceding to the United States all right, title, interest or claim of the state of California to any lands uncovered by the lowering of the water levels of any or all of said lakes not already disposed of by the state. [Approved February 3, 1905. Stats. 1905, p. 4.]

See "Lake Tahoe," tit. 266.

TITLE 266.

LAKE TAHOE.

ACT 1859.

An act to provide for the construction of permanent bridge work on the Lake Tahoe wagon road, a state highway, and making an appropriation therefor. [Approved March 22, 1905. Stats. 1905, p. 796.]

ACT 1860.

To create the office of Lake Tahoe wagon road commissioner. [Stats. 1897, p. 388.]

Amended 1899, p. 286.

Repealed 1907, p. 215.

ACT 1861.

To authorize the state to secure the title to right of way of a wagon road situate between Smith's Flat, El Dorado County, and Lake Tahoe. [Stats. 1895, p. 119.]

Superseded 1897, p. 389.

ACT 1862.

An act to appropriate money for the general improvement and completion of survey of the Lake Tahoe wagon road, and for the construction of restraining walls, culverts, bridges and milestones thereon. [Approved March 8, 1907. Stats. 1907, p. 140.]

ACT 1863.

An act to appropriate the sum of twenty thousand dollars for the general improvement of Lake Tahoe wagon road, and for constructing, erecting and operating a sprinkling plant and appurtenances thereon. [Approved April 12, 1909. Stats. 1909, p. 853.]

TITLE 267.

LANDLORD AND TENANT.

ACT 1866.

Relating to the rights of landlords and tenants. [Stats. 1861, p. 514.]

Superseded by Civil Code and Code of Civil Procedure.

Citations. Cal. 44/287; 61/188.

TITLE 268.**LARCENY.****ACT 1871.**

Act to more fully define the crime of larceny. [Stats. 1871-72, p. 282.]

See § 495, Penal Code.

This act appears in the Appendix to the Penal Code, p. 838.

ACT 1872.

Concerning crimes and punishments, supplementing act of April 16, 1850.

[Stats. 1871-72, p. 435.]

Remains in force: *People v. Salvador*, 71 Cal. 16.

This act made the stealing of amalgam, gold-dust, or quicksilver grand larceny. It appears in full in the Appendix to the Penal Code, p. 838.

TITLE 269.**LASSEN COUNTY.****ACT 1877.**

Fixing salaries of district attorney of. [Stats. 1871-72, p. 189.]

Repealed by County Government Act, 1897, p. 567, § 209.

ACT 1878.

To regulate fees of justices in. [Stats. 1877-78, p. 683.]

Repealed by the fee bill of 1895, p. 267.

ACT 1879.

County treasurer, bonds of. [Stats. 1875-76, p. 154.]

Repealed by County Government Act, 1897, p. 475, § 66.

ACT 1880.

Public roads. [Stats. 1875-76, p. 539.]

Supplemented 1875-76, p. 858. Amended 1877-78, p. 641. Repealed 1888, p. 5, c. X, § 2.

TITLE 270.**LAW LIBRARIES.****ACT 1885.**

To establish law libraries. [Stats. 1891, p. 430.]

Amended 1895, p. 46; 1907, p. 85.

Superseded by §§ 4190-4204 of Political Code as amended in 1907.

As to supreme court law library, see Political Code, § 2318; San Francisco law library, see Stats. 1869-70, p. 235, amended 1880, p. 40; charter of San Francisco, c. IX, art. V.

TITLE 271.
LEASES.

ACT 1890.

An act concerning confirming and ratifying leases and other contracts made by any officer or boards of officers of this state.

[Approved March 23, 1901. Stats. 1901, p. 601.]

§ 1. All leases for terminal facilities made or executed by any state officer or board of state officers to any person, persons or corporation within two years prior to the passage of this act and which shall be on file in the office of the secretary of state on or before February fifteenth, nineteen hundred and one, are hereby recognized, approved and ratified, and the terms, covenants and conditions thereof shall bind the parties thereto, their successors and assigns and the state of California.

§ 2. The lease of the lands known as China basin in the city and county of San Francisco to the San Francisco and San Joaquin Valley Railway Company for terminal facilities, made on November twenty-first, nineteen hundred, by and between said company and the board of state harbor commissioners, is hereby approved and ratified, and the covenants, conditions and terms thereof shall bind the parties thereto, their successors and assigns, and the state of California.

§ 3. All acts and parts of acts in conflict herewith are hereby repealed.

§ 4. This act shall take effect immediately.

TITLE 272.
LEGAL TENDER.

ACT 1895.

An act in relation to the currency of the United States. [Approved March 12, 1890. Stats. 1890, p. 8 (Ban. ed. 28).]

Citations. Cal. 104/689.

§ 1. All legal-tender notes heretofore issued, or which may hereafter be issued, by the government of the United States of America, as legal-tender notes, shall be received at par in payment for all taxes due or to become due to this state, or to any county or municipal corporation thereof, and such notes shall be a legal tender for all debts, dues, and demands between citizens of this state.

§ 2. All acts, and the provisions of any act or parts of acts, conflicting with this act are hereby repealed.

§ 3. This act shall take effect and be in force from and after its passage.

**TITLE 273.
LEGISLATION.**

ACT 1900.

For the creation of a commission for the promotion of uniformity of legislation in the United States, and to appropriate money for its expenses. [Approved March 9, 1897. Stats. 1897, p. 74.]

Repealed 1901, p. 49.

**TITLE 274.
LEGISLATIVE DISTRICTS.**

ACT 1905.

Senatorial and assembly districts, defining. [Stats. 1873-74, p. 366.]

Amended 1880, p. 4. Repealed 1883, pp. 58, 55.

Citations. Cal. 65/578; 96/292.

ACT 1906.

To divide the state into senatorial districts, and to provide for the election of senators therein. [Stats. 1883, p. 58.]

Repealed 1891, p. 71.

Citations. Cal. 96/296; 112/329.

ACT 1907.

To divide the state into assembly districts, and to provide for the election of assemblymen. [Stats. 1883, p. 85.]

Repealed 1891, p. 71.

ACT 1908.

To divide the state into legislative districts, and to provide for the election of assemblymen and senators in each district. [Stats. 1891, p. 71.]

Superseded 1901, p. 585.

ACT 1909.

To divide the state into legislative districts, and to provide for the election of senators and ~~assemblymen~~ therein. [Stats. 1901, p. 535.]

Citations. Cal. 152/285, 286.

Codified by §§ 78, 90 of Political Code.

**TITLE 275.
LEVEE DISTRICTS.**

ACT 1913.

An act to provide for the formation of levee districts in the various counties of this state, and to provide for the erection of levees, dikes and other works for the purpose of protecting the lands within such districts and overflow and to levy assessments to erect and construct and maintain such levees, dikes and other works and to pay the necessary costs and expenses of maintaining said districts.

[Approved March 20, 1905. Stats. 1905, p. 327.]

Amended 1907, p. 333.

Petition to supervisors for formation of levee district. Resolution of Intention. Publication of Notice.

§1. Whenever the board of supervisors of any county in this state shall receive a petition signed by a majority of the land owners within any portion of said county, accompanied by a deposit sufficient to cover the cost of publication of all notices required by sections 2 and 3 of this act, which said portion of said county shall be specifically described and set out by metes and bounds in said petition, asking that said portion of said county be set apart and erected into a levee district for the purpose of protecting the lands embraced in said portion of said county from overflow from any river, stream or streams, or watercourse, the board of supervisors shall pass a resolution signifying its intention to erect and set apart said portion of said county into a levee district, for the purpose of protecting the lands therein from overflow and describing the exterior boundaries of the district of lands embraced therein, and to be assessed to pay the damages, costs and expenses thereof. Such resolution shall also contain a notice to be published, which said notice shall be headed, "Notice of intention of the board of supervisors to form a levee district," and shall state the fact of the passage of such resolution, with the date thereof, the boundaries of the district, and the statement that it is proposed to assess all properties embraced within such proposed levee district for the purpose of paying the damages, costs and expenses of erecting and repairing dikes, levees and other improvements to protect the said lands from overflow, and the necessary expense of maintaining the said district and refer to the resolution for further particulars. Such notice to be given by the board of supervisors and signed by its clerk. Petitions shall be heard in the order of filing. [Amendment approved March 16, 1907. Stats. 1907, p. 333. In effect immediately.]

Term of publication.

§2. Such notice shall be published for a period of thirty days, in a newspaper published and circulated in said county and designated by said board of supervisors.

Objections to formation of district. Time for hearing.

§3. Any person interested, objecting to the formation of such levee district or to the extent of the district of lands to be affected or benefited by erection or repair of such dikes, levees or other improvements to protect the same from overflow, and to be assessed to pay the costs and expenses thereof, may make written objections to the same within ten days after the expiration of the time of the publication of said notice, which objection shall be delivered to the clerk of said board of supervisors, who shall indorse thereon the date of its reception by him, and at the next regular meeting of said board of supervisors or at an adjourned meeting or a special meeting called for that purpose, after the expiration of said ten days lay such objections before said board of supervisors, said board shall then fix a time for hearing of said objections not less than fifteen days thereafter and direct its clerk to notify each

person objecting of such day fixed for hearing, by depositing a notice thereof in the postoffice at the county seat of such county, postage prepaid addressed to such person objecting, which said notice shall be deposited in the postoffice not less than ten days before the day set for hearing.

Hearing.

§ 4. At the time specified or to which the hearing may be adjourned, the board of supervisors shall hear the objections urged and pass upon the same. Such board may, in its discretion sustain, in whole or in part, any or all of the objections made and filed, and must declare such levee district as petitioned for formed as a subdivision of such county, and shall designate such district by name as the "— Levee District of — County." [Amendment approved March 16, 1907. Stats. 1907, p. 334. In effect immediately.]

Declaration of supervisors.

§ 6. If it shall appear to the satisfaction of the board of supervisors that it is the desire of a majority of the owners of land in such proposed district that the same should be erected into a levee district, and that it is just and proper, they may declare said territory a levee district for the above purposes, and record the same in a book to be kept for that purpose, giving the metes and bounds. [Amendment approved March 16, 1907. Stats. 1907, p. 334. In effect immediately.]

Notice of election of trustees. Who may vote. Conduct of election.

§ 7. Within ten days after the board of supervisors have declared the territory a levee district and recorded the same as provided in section 5 of this act, the board of supervisors must give notice of an election to be held in the said district, for the election of three eligible persons, who shall be property owners in said district and, who shall constitute when elected and qualified, the board of trustees of the district for the management of the affairs thereof, and who shall hold office for two years next succeeding their election, and until their successors are elected and qualified. The notice calling such election shall not be less than one month, and at such election every qualified elector in said district whose names shall appear on the last preceding assessment-roll of the county and having been assessed on property within the boundaries of said district, shall be entitled to vote, and a majority of votes cast at such election shall elect. The board of supervisors must appoint a time and place for holding such election. The notice of such election shall be given by publication for not less than one month, in a newspaper in the county where such district is situated. For the purpose of such election the board of supervisors of the county in which said district is situated must appoint from the qualified electors and property owners of said district, one inspector and two judges of election for such district; but in case the board of supervisors fail to appoint, or the persons appointed, fail to attend at the time and place appointed for such election, the voters present at the time and place of opening the polls may appoint the

board or supply the place of the absent member thereof. Each member of the board of election must before entering upon his duties, be sworn to faithful performance thereof by some officer authorized to administer oaths. The board of election must canvass the votes cast, and issue certificates of election to the persons elected, and must place the ballots when canvassed in an envelope, and forward the same sealed to the clerk of the board of supervisors. Any legally qualified voter may challenge any vote, and the board of election shall determine, by the oath of the parties or otherwise, as they may think proper, whether or not the person challenged is entitled to vote, and in case of challenge, either one of the board of election is hereby authorized to administer oaths. The polls shall be open from 10 A. M. until 4 P. M. In case of vacancy in the board of trustees, the board of supervisors shall by appointment fill such vacancy. Similar elections shall be held every two years from and after the date of the first election, and shall be called in the same way as the first election. [Amendment approved March 16, 1907. Stats. 1907, p. 335. In effect immediately.]

Trustees must keep an office. Powers of trustees. Yearly estimate of cost. Report to supervisors.

§ 8. The board of trustees must keep an office in or near the district for the transaction of the business thereof, and the books, maps, papers, records, contracts and other documents pertaining to the affairs of the district must be open for inspection to any person interested at all times. From and after the election and qualification of said trustees said district shall be deemed organized and shall have power to sue or be sued. The board of trustees shall have power to elect one of its members president thereof, to employ engineers and others, to survey, plan, locate and estimate the cost of the works and improvements necessary, in the way of erection or repair of levees, dikes and other works for the benefit of said district; to thereafter and at any time in its discretion modify or change said original plan or plans, or to adopt any new supplemental or additional plan or plans, when in its judgment the same shall become necessary; to acquire by purchase, condemnation or otherwise, rights of way, and the right to take material for the construction of all works necessary for the accomplishment of the objects of the district including drains, levees and embankments, and to construct, maintain and keep in repair all works, requisite and necessary to that end; and to do all other acts and things necessary or required for the protection of the lands in said district from the overflow of any river, stream, streams or watercourse, and to employ the service of any person legal or otherwise which in the judgment of said board of trustees may be necessary to the welfare of the district. The said board of trustees shall each year estimate the total cost for all purposes of erecting, constructing or repairing levees, dikes or other works, and doing the necessary things for the protection of the lands and property within said district from the overflow of any river, stream, streams or watercourse, and maintain the same for one year, including all damages awarded to any person by reason of the erection or construction of any of said levees, dikes or

other works for protection, and upon approval by a majority of the electors shall thereupon make a report of the foregoing matters to the board of supervisors in which said district is situated, showing the amount of money required by said district for all purposes for one year thereafter. Said estimate of moneys necessary for said district for each year, and said report shall be made to said board of supervisors by said board of trustees on or before the 1st day of September of each year after the formation of said district, and said estimate made as aforesaid and report to said board of supervisors by said board of trustees as hereinbefore set out, shall in each instance form the basis of the estimates of the board of supervisors for the amount of money required to be raised by assessment on the lands and personal property within such district for such year. [Amendment approved March 16, 1907. Stats. 1907, p. 336. In effect immediately.]

Duty of county assessor.

§9. The county assessor of such county shall, on or before the 1st day of September of each year after the formation of such district, and at such other times as the board of supervisors shall require, furnish said board of supervisors with a detailed statement showing the names of all owners of land and personal property within the boundaries of said district and the assessed valuation of said lands, improvements thereon, and personal property, as shown on the last preceding assessment-roll, made by such assessor on the property within said district. [Amendment approved March 16, 1907. Stats. 1907, p. 336. In effect immediately.]

Annual tax levy.

§10. At the time when by law it is the duty of the board of supervisors of such county to fix the annual tax rate of such county, the said board of supervisors taking as a basis the last previous estimate and report of said board of trustees of said district as hereinbefore specified, for the amount of money necessary to be raised in said district for the purposes thereof for that year, and the valuation of the lands and improvements thereon, and personal property within such district as furnished them by the county assessor, must levy a tax upon all taxable property in such levee district sufficient to raise the amount set forth in said estimate and report as made by said board of trustees.

The rate of taxation shall be ascertained by deducting twenty per cent for anticipated delinquency from the aggregate value of all the property in said district as shown by the statement prepared and furnished to said board of supervisors by the assessor as hereinbefore provided, and then dividing the amount necessary to be raised in said levee district by the remainder of such aggregate assessed value as shown in said statement as furnished by said assessor. The taxes so levied shall be computed and entered upon the assessment-roll of the county by the county auditor and collected at the same time, and in the same manner as state and county taxes; and when collected shall be paid into the county treasury for the use of said levee district in which said taxes were levied. And all taxes so levied as hereinbefore provided shall be

a lien upon the lands and property in said district, in the manner, and with the same effect, and collected in the same way, as are state and county taxes. [Amendment approved March 16, 1907. Stats. 1907, p. 336. In effect immediately.]

Disposition of moneys collected. Payment of claims.

§ 11. All moneys collected from such district for such taxes, and all moneys received from any source for the benefit of such district shall be by the county treasurer placed in a fund, to be called the "— Levee District Fund"; and all payments of any of the expenses of the work or improvements or other expenses of such district shall be made upon warrants drawn by the county auditor upon such fund, and paid by said treasurer, and all claims as well for the land and improvements taken or damaged, as for the charges and expenses of said district, shall be paid on claims prepared in the manner required by law for the preparation of claims against the county and first presented to the board of trustees of said district, and be by them approved, and then to be presented and filed as are the claims against the county, and shall thereupon be paid as are the claims against the county, and upon the order of the board of supervisors, and the claims shall be itemized in the same manner as are the claims against the county. [Amendment approved March 16, 1907. Stats. 1907, p. 337. In effect immediately.]

Construction must be by contract; exception. Sealed bids. Emergency work. Plans and details.

§ 12. No levees, dikes or other works for the benefit of said district must be constructed or repaired except on the order of the board of trustees of said district and when such repair or construction will exceed the sum of \$500 the same must be repaired or constructed under a contract, let, after reasonable notice given by the said board of trustees by publishing said notice at least once a week for two weeks in a newspaper published and circulated in said county and designated by said board of trustees. All bids shall be sealed and shall be opened at the time specified in the notice, and the contract awarded to the lowest responsible bidder. The board may however, reject any and all bids. The contract and bond for its performance must be entered into and approved by the board of trustees, except however in cases of great emergency, by the unanimous consent of the whole board of trustees they may proceed at once to replace or repair any and all levees, dikes or other works of whatever nature without notice. Prior to the publication of the notice of the letting of any contract for the erection or repair of dikes, levees or other works, the board of trustees must cause to be prepared by a competent engineer, plans and specifications and working details of such work, which said plans and specifications shall be adopted by the board of trustees and filed in the office of said board and shall be subject to inspection by any person for at least two weeks prior to the date of the letting of such contract. The board of trustees must appoint an engineer to supervise the construction, repair or other works to be done under such plans and specifications and no claim shall be allowed for any work done under any contract let under such plans

and specifications without a certificate being first filed in the office of the board of trustees and in the office of the clerk of the board of supervisors of said county signed by said engineer, certifying that such work has been completed and constructed according to the plans and specifications and the terms of the contract. Such engineer shall be paid such compensation as may be agreed upon by the board of trustees and such compensation shall be paid in the same manner as are other claims against said district. [Amendment approved March 16, 1907. Stats. 1907, p. 337. In effect immediately.]

When county may contribute to expenses.

§ 13. Whenever the board of supervisors of any county in which said district is situated shall consider that the construction or repair of dikes, levees or other works of said district along or upon any of the county roads of such county, will be for the mutual benefit of such district and such county, then in that event the said board of supervisors shall have power, and may contribute to the expense and cost of such work, such sums of money as they may deem proper on behalf of the county, and such moneys shall be paid out of either the general road fund or the special fund of any road district, in which said work is done, and as a majority of said board of supervisors may determine. [Amendment approved March 16, 1907. Stats. 1907, p. 338. In effect immediately.]

Bond of trustees.

§ 14. The board of trustees elected under this act shall serve without compensation, and shall each file a bond for the faithful performance of their duties in the sum of \$5,000 said bond to be approved by the judge of the superior court of the county in which said district is situated. [Amendment approved March 16, 1907. Stats. 1907, p. 338. In effect immediately.]

Power to condemn land.

§ 15. The board of trustees shall have power, in the name of the district to condemn land, or other property, for the purpose of erecting levees, dikes and other improvements or obtaining material for the same for the purpose of protecting the lands embraced in said district from overflow, and for that purpose, all of the provisions of Part III, Title VII of the Code of Civil Procedure are hereby made applicable to exercise of the right of eminent domain for such purpose to the needs of such district. [Amendment approved March 16, 1907. Stats. 1907, p. 338. In effect immediately.]

Not to supersede other acts.

§ 16. This act is not intended to supersede or repeal any other act for the construction and maintenance of ditches, levees, dikes or works of protection or for drainage or for reclamation but is intended as an independent and alternative means of constructing and erecting such districts, levees, dikes or other works of protection where most applicable and desirable to the parties interested. [Amendment approved March 16, 1907. Stats. 1907, p. 338. In effect immediately.]

ACT 1914.

To provide for the organization and government of levee districts created for the protection of lands from overflow of innavigable running streams of water, and to confine innavigable running streams to a fixed channel. [Approved March 10, 1891. Stats. 1891, p. 30. Repealed Stats. 1893, p. 111.]

ACT 1915.

Yuba, Sutter, and Placer counties, to organize a levee district in, and to provide for the construction, maintenance and repair of levees therein. [Stats. 1877-78, p. 732.]

ACT 1916.

To organize levee district No. 1, Sacramento County, and to provide for its government. [Stats. 1877-78, p. 853.]

Amended 1880, p. 65.

ACT 1917.

Amendatory of and supplementary to an act entitled "An act to define the boundary and provide for the government of levee district number two, of Sutter County," passed March 23, 1876, in relation to the election of officers for said district, funding the floating debt, and refunding the funded debt thereof. [Stats. 1893, p. 199.]

Amended 1895, p. 286. See Act 2947, post.

ACT 1918.

To define the boundary and provide for the government of levee district number six of Sutter County, California. [Stats. 1891, p. 237.]

Amended 1907, p. 56.

ACT 1919.

To provide for funding the indebtedness of levee district number six, of Sutter County, and to provide for the payment of such funded debt. [Stats. 1891, p. 235.]

ACT 1920.

Providing for the payment of all moneys in the state treasury to the credit of swamp land district funds to the treasuries of the counties wherein the said swamp-land districts are situated, and to provide for the control of the same by the auditor and treasurer of said counties, and prescribing the duties of the controller and treasurer in relation thereto. [Approved March 31, 1891. Stats. 1891, p. 243.]

ACT 1921.

An act to provide for the funding and refunding of the indebtedness of levee and protection districts.

[Approved April 1, 1897. Stats. 1897, p. 424.]

§1. The board of directors or trustees of any levee or protection district having an outstanding indebtedness of not less than twenty

thousand dollars, evidenced by bonds or warrants of such district, by a vote of two-thirds of all the members thereof, are empowered, if they deem it for the best interest of such district to fund and refund the same, or any part thereof, and issue bonds of such district therefor, in sums of not less than one hundred dollars nor more than one thousand dollars each, having not more than twenty years to run, and bearing a rate of interest not exceeding seven per cent per annum, payable semi-annually, which bonds shall be substantially in the following form:

No. _____. (Name of district), in the county of _____, state of California, for value received, promises to pay _____, or order, at the office of the treasurer of said district, in _____, California, on or before the first day of _____, 19____, the sum of _____ dollars, in gold coin of the United States, with interest at the rate of _____ per cent per annum, payable at the office of said treasurer semi-annually, on the first day of _____ and _____ in each year, on presentation and surrender of the interest coupons hereto attached. This bond is issued by the board of _____ of said district in conformity with a resolution of said board, dated the _____ day of _____, eighteen hundred and _____, and under authority conferred upon said board by the provisions of an act of the legislature of California, entitled "An act to provide for the funding and refunding of the indebtedness of levee and protection districts," approved (insert date of approval of the act).

In testimony whereof, the said district, by its board of _____, has caused this bond to be signed by the chairman of said board, and attested by the auditor of _____ county, with his seal of office attached, this _____ day of _____ 18____.

Chairman of said Board.

Attest: _____, Auditor of _____ county.

And the interest coupons shall be in the following form:

The treasurer of (name of district) will pay to the holder hereof, on the _____ day of _____, 1____, at his office in _____, _____ dollars, gold coin, for interest on bond of said district numbered _____.

§ 2. Bonds issued under this act shall be numbered consecutively, signed by the chairman of the board of directors, or trustees, as the case may be, and delivered to the auditor of the county in which the levee or protection district is situated, who shall countersign the same and affix thereto his official seal, and shall by him be delivered to the treasurer of the district, who shall deliver to such auditor his receipt therefor, and said treasurer shall stand charged on his official bond with all bonds delivered to him and the proceeds thereof, and he shall sell the same or exchange them under the direction of the board of directors or trustees of such levee or protection district, on the best available terms, for any legal indebtedness of such district, but in neither case for a less sum than the face value of the bonds and all interest accrued thereon at the date of such sale or exchange; and if any portion of such bonds are sold for money, the proceeds thereof shall be applied exclusively to the payment of liabilities existing against the district at the date last above named. When they are exchanged for bonds or warrants or other legal evidences of district indebtedness, the treasurer shall

at once cancel such evidences of indebtedness by indorsing thereon the amount for which they were received, the word "canceled" and the date of cancellation. He shall keep a record of all bonds sold or exchanged by him, by number, date of sale, amount, date of maturity, the name and postoffice address of purchasers, and, if exchanged, what evidence of indebtedness was received therefor, which record shall be open at all times for public inspection. No such bonds shall be sold or exchanged for any indebtedness of the district except by the approval of the board of directors or trustees thereof.

§ 3. The board of directors or trustees shall cause to be assessed and levied each year upon the assessable property of the district, in addition to the levy authorized for other purposes, a sufficient sum to pay the interest on outstanding bonds, issued in conformity with the provisions of this act, accruing before the next annual levy, and such proportion of the principal, that at the end of five years the sum raised from such levies shall equal at least twenty per cent of the amount of bonds issued, at the end of nine years at least forty per cent of the amount, and at and before the date of maturity of the bonds shall be equal to the whole amount of the principal, and the money arising from such levies shall be known as the bond fund, and shall be used for the payment of bonds and interest coupons, and for no other purpose whatever; and the treasurer shall open and keep in his books a separate and special account thereof, which at all times shall show the exact condition of said bond fund.

§ 4. Whenever there shall be in the bond fund of such district a surplus of five hundred dollars or more, over and above the interest maturing before the next levy, the treasurer shall give notice for two weeks in one or more newspapers of general circulation, printed and published in the county in which such district is situated, stating the amount of such surplus, and that on the day and hour named in such notice, sealed proposals will be received at his office for the surrender of bonds of the district, and shall at the time and place named open the proposals and accept the lowest bid; provided, that no bid shall be accepted for an amount exceeding the par value of such bonds with accrued interest; if bids are not offered, at par, or less, sufficient to exhaust the amount on hand applicable to redemption, the treasurer shall publish for the same time and in the same manner a notice that he will redeem a bond or bonds of said district, giving the number or numbers thereof, and that if not presented for redemption within thirty days after the date of the first publication of such notice, the interest thereon will cease, and the amount due thereon will be set aside for the payment of such bond or bonds whenever presented. If any such bond be not so presented, interest thereon shall cease, and the amount due thereon shall be set aside as specified in said notice. All redemption of bonds other than those voluntarily surrendered shall be made in the exact order of their issuance, beginning with the lowest or first number.

§ 5. This act shall take effect immediately.

**TITLE 276.
LEXINGTON.**

ACT 1926.

Lexington, Los Angeles County, name changed to El Monte. [Stats. 1875-76, p. 854.]

**TITLE 277.
LIBEL.**

ACT 1931.

Concerning actions for libel and slander. [Stats. 1871-72, p. 533.]

Amended 1880, p. 81.

Citations. Cal. 69/580; 78/571, 572; 98/422, 425; 153/670. App. 8/126.

This act appears in full in Code of Civil Procedure, Appendix, p. 868. It required the plaintiff to give a bond for costs. It was not repealed by the Code of Civil Procedure: *Smith v. McDermott*, 98 Cal. 421.

**TITLE 278.
LICENSES.**

ACT 1936.

To provide for miners' licenses from foreigners. [Stats. 1853, p. 62.]

Amended 1854, p. 55; 1855, p. 216; 1856, p. 141; 1857, pp. 60, 182, 360; 1858, p. 302. Supplemented 1866, p. 880.

"Doubtless unconstitutional; but see *People v. Naglee*, 1 Cal. 232; *Lin Sing v. Washburn*, 20 Cal. 544."—Code Commissioner's Note.

ACT 1937.

To prohibit the issue of licenses to aliens not eligible to become electors. [Stats. 1880, p. 39.]

"Unconstitutional: *People v. Quong On Long*, 6 Pac. O. L. J. 192. See Political Code, § 8666, as amended 1901, p. 635."—Code Commissioners' Note.

ACT 1938.

Enforcing the collection of license taxes. [Stats. 1871-72, p. 539.]

This act imposed upon the district attorney the duty of instituting proceedings against persons neglecting to pay ferry or bridge license taxes.

ACT 1939.

Authorizing the payment of salaries by boards of supervisors to persons who have been employed to collect county licenses, and legalizing all payments heretofore made to such persons. [Approved March 27, 1895. Stats. 1895, p. 267.]

ACT 1940.

An act restricting the powers of boards of supervisors in the matter of imposing licenses upon the business of raising, herding, grazing, and pasturing sheep.

[Approved February 26, 1903. Stats. 1903, p. 41.]

§ 1. No license or licenses greater than five cents per head shall be imposed by the board of supervisors of any county on the business of raising, herding or pasturing sheep, and any and all licenses imposed by the board of supervisors of any county on the business of raising, herding or pasturing sheep, in excess of five cents per head, shall be and are hereby declared invalid; provided, the provisions of this act shall not apply to any license tax the validity of which is involved in any suit now pending, or to any such license tax due when this act takes effect.

§ 2. This act shall take effect immediately.

ACT 1941.

An act imposing a license tax upon itinerant vendors of drugs, nostrums, ointments, or appliances sold for the cure of disease, injuries, or deformities.

[Approved March 20, 1903. Stats. 1903, p. 284.]

Amended 1907, p. 765; 1909, p. 419.

§ 1. No person as principal or agent, shall conduct as an itinerant vendor the business of selling or in any manner disposing of drugs, nostrums, ointments or any appliances for the treatment of disease, deformities or injuries, within this state, without previously obtaining a license therefor as herein provided. [Amendment approved March 19, 1909. Stats. 1909, p. 419.]

§ 2. A license fee of one hundred dollars is hereby levied upon all such itinerant vendors doing business in this state. Said tax shall be paid to the state board of pharmacy, for the use and benefit of the state of California, and shall constitute a special fund for the enforcement of this act, and of the provisions of the act or acts creating such board of pharmacy. Upon the receipt of said sum from any persons desiring to conduct such business within this state, the secretary of said board of pharmacy shall issue a license to such person to carry on such business within this state for the term of six months next ensuing; provided that nothing in this act shall be construed to prevent the collection of any tax or license that may be imposed by any county or municipal authority; and provided, further, that nothing herein contained shall prevent manufacturing pharmaceutical firms from placing their products on the market through their agents and managers subject to the provisions of section 3 of this act. The said board of pharmacy may allow such license to be transferred during the life thereof on such terms as the board of pharmacy may deem proper; provided however, that nothing in this act shall be held to repeal or modify the provisions of an act approved March 20, 1905, "An act permitting all ex-Union soldiers and sailors of the Civil War, honorably discharged from military or marine service of the United States, the right to vend, hawk and peddle goods, wares, fruits or merchandise not prohibited by law, in any county, town or village, incorporated city or municipality in the state of California, without paying a license." [Amendment approved March 21, 1907. Stats. 1907, p. 765.]

§ 3. Itinerant vendors under the meaning of this act shall include all persons who carry on the business above described by passing from house to house, or by haranguing the people on the public streets or in public places, or use the various customary devices for attracting crowds and therewith recommending their wares, and offering them for sale.

§ 4. Said board of pharmacy shall on the first day of July of each year make a verified and itemized statement in writing to the controller of this state, of all receipts and disbursements of money coming into their hands by reason of this act.

§ 5. Any person violating any of the provisions of this act, who shall without such license, sell or offer for sale any of the above-described drugs, nostrums, ointments, or appliances, shall be deemed guilty of a misdemeanor, and for such breach of this act upon conviction therefor, shall be punished by a fine of not less than one hundred dollars nor more than two hundred and fifty dollars, or by imprisonment in the county jail for not less than fifty days or more than one hundred and twenty days, or both such fine and imprisonment. All fines recovered under this act shall be paid by the magistrate receiving the same, to the state board of pharmacy, and by said board placed in the special fund created by section 2 of this act.

§ 6. In all actions or prosecutions under this act it need not be alleged in the complaint nor proved by the prosecution that the defendant has not a license as required in this act, but the fact that he has such license may be plead as a matter of defense.

§ 7. All acts or parts of acts conflicting with this act [are] hereby repealed, in and so far as they conflict.

§ 8. This act shall take effect and be in force sixty days after its passage.

ACT 1942.

An act to authorize counties, cities and counties, and incorporated towns, and chartered or incorporated cities, to license bicycles, tricycles, and similar vehicles, and collect a fee therefor, for the purpose of devoting such fee to the construction of paths along county roads for the use of pedestrians, and the wheeling thereon of such vehicles.

[Became a law under constitutional provision without governor's approval, March 16, 1901. Stats. 1901, p. 324.]

§ 1. Counties, cities and counties, chartered or incorporated cities and towns in the state of California, are hereby, through the governing bodies thereof, authorized and permitted to license the use of bicycles, tricycles, automobile carriages and carts, and similar wheeled vehicles, propelled by the power of the rider, or by motor under control of the rider, owned, rented, and used within the several jurisdictions above named; provided, that such license shall be granted and issued only on

payment of a fee not to exceed one dollar a year for each of such vehicles; and further provided, that the money so collected shall be appropriated and used only for the purpose of constructing and maintaining paths and walkways for the use of pedestrians, and the wheeling of the above-named vehicles; and provided also, that the sum of the taxes paid to the state, county, town, or municipality, upon any vehicle the use of which is hereby authorized to be licensed, shall be deducted from the amount of the license fee hereby authorized, and credited upon the license; it being the intention that any license fee hereby authorized shall be collected in such less sum as is represented by the subtraction of the personal property tax from the sum of the license fee fixed by such ordinance.

§ 2. When an ordinance establishing such license and fixing such license fee is passed, the fee shall be collected and the license issued in the manner and by the officer or officers provided for the issuance and collection of other licenses, and the governing body of such jurisdictions named in section 1 of this act may devise such label, tag, or certificate as is deemed necessary to be witness of the possession of such license, and the payment of such fee; provided, that no license shall be required for any vehicle so named in this act as is in the possession of a merchant, manufacturer, or dealer, for the purposes of sale or barter, and not for use by the owner or his or her agent, or by persons to whom such vehicles are rented for use, by the hour, the day, the week, or other period of time.

§ 3. It shall be lawful for such governing bodies to provide in such ordinance or ordinances for the enforcement of penalties for the violation thereof, or for failure or refusal to take such license, or pay such license fee; provided, that no penalty shall exceed the sum of the said license fee, with the costs of collection and prosecution under the ordinance added thereto; nor shall any judgment of imprisonment exceed a period of twenty-four hours for violation of said ordinance.

§ 4. It shall be lawful to provide in any such ordinance authorized by this act, for the application of the money collected to the construction and maintenance of such paths, by said towns or cities, or consolidated cities and counties, without the limits of such town and municipal jurisdictions, but within the county, by and with the consent of the board of supervisors of such county.

§ 5. No municipal or town authority in this act referred to shall have authority by ordinance or otherwise to license any such vehicle for use as is in this act referred to, except the same is owned by a resident of such municipal or town jurisdiction, or is used by a resident of such jurisdiction; nor shall any county, by ordinance or otherwise, lay such license upon the use of any such vehicle named in this act, or require a license fee therefor, except the same is owned or used by a resident of the county without the boundaries of town or municipal jurisdictions in the county; provided, that if any town or municipal authority authorized

under this act does not provide for such ordinance of license and fee as is permitted by this act, then, and in that case, the governing body of the county may by ordinance provide for the license herein provided for and permitted, and the collection of the fee authorized by this act, so as to make the same applicable to the residents of such town or municipality. But in no case shall any license or fee be required of travelers in counties other than that of their residence, nor from tourists, or visitors, or temporary residents of any city, town, city and county, or county.

§ 6. All costs and charges for licenses herein provided for, for tags, or visible evidences of issuance and possession of license, for receipts for payment of the license fee, and other necessary and inseparable expense related to such licenses, shall be paid from the sum of such collections of fees; provided, that no additional salary or fee shall be paid to any officer of any county, or town, or city, or city and county, for services in issuing or delivering licenses provided for by this act, or for collecting the fees therefor, authorized and provided for in this act.

§ 7. This act shall take effect and be in force from and after its passage.

TITLE 279.

LIENS.

ACT 1947.

To secure a lien of livestock kept, fed, or pastured. [Stats. 1869-70, p. 723.]

Not repealed by codes: See *Johnson v. Perry*, 58 Cal. 851.
Citations. Cal. 44/804.

ACT 1948.

Creating a lien in favor of owners of stallions, jacks, and bulls, used for propagating purposes. [Stats. 1891, p. 90.]

Codified by §§ 8062-8064 of Civil Code, 1905. See note to § 8062, Civil Code.

ACT 1949.

To secure wages of persons employed as laborers on threshing machines. [Stats. 1885, p. 109.]

Citations. Cal. 75/201, 202; 104/11; 116/298; 125/171, 172; 141/94.
Codified by § 8061 of Civil Code, 1905. See note to § 8061, Civil Code.

ACT 1950.

To secure the payment of claims of materialmen, mechanics, or laborers employed by contractors upon state, municipal, or other public work. [Stats. 1897, p. 201.]

Citations. Cal. 129/894; 138/28, 24; 185/687, 689. App. 8/509.
See this act, post, Act 2895.

ACT 1951.

Giving a lien to loggers and laborers employed in logging camps upon the logs cut and hauled. [Stats. 1877-78, p. 747.]

Amended 1880, p. 88; 1887, p. 58.

Citations. Cal. 67/423, 425.

Partly codified by amendment of the Civil Code, 1905. See note to § 8065, Civil Code.

This act appears in full in Civil Code, Appendix, p. 825.

TITLE 280.**LIGHTHOUSES.****ACT 1958.**

An act concerning submarine sites for lighthouses and other aids to navigation on the coast of this state. [Approved March 26, 1874. Stats. 1873-74, p. 621.]

This act authorized the governor to convey sites for the purposes indicated to the United States.

Codified by § 85, Political Code, added in 1907.

LIQUOR.

See "Intoxicating Liquors."

TITLE 281.**LIVERMORE.****ACT 1961.**

Incorporating. [Stats. 1875-76, p. 913.]

Superseded by incorporating, in 1900, under Municipal Corporation Act of 1883.

TITLE 282.**LODGING-HOUSES.****ACT 1966.**

Relating to lodging-houses and sleeping apartments. [Stats. 1875-76, p. 759.]

Codified by § 401a of Penal Code, 1905. See note to § 401a, Penal Code.

This act is known as the cubic air law. It provided for the number of cubic feet required for each person.

TITLE 283.**LOGS.****ACT 1971.**

Establishing a scale for the measurement of logs. [Stats. 1877-78, p. 604.]

Amended 1880, p. 119.

TITLE 284.**LOS ANGELES CITY.****ACT 1975.**

Charter of Los Angeles. [Stats. 1889, p. 455.]

Amended 1903, p. 555; 1905, p. 980; 1907, p. 1160; 1909, p. 1289.

Citations. Cal. 97/220; 100/19; 106/478; 112/329; 114/156; 138/344; 141/206, 214, 507; 146/516, 757, 758, 759, 760, 761, 762, 763; 147/655, 657, 759; 150/74; 151/63, 656, 657, 662, 663; 152/767; 153/164, 169; 154/882, 883. App. 4/47; 5/270.

ACT 1976.

Amendatory of charter of. [Stats. 1871-72, p. 128.]

Amended 1871-72, p. 623. Superseded by charter, 1889, p. 456.

ACT 1977.

Charter of. [Stats. 1873-74, p. 633.]

Amended 1875-76, p. 692; 1877-78, p. 642. Superseded by charter of that city, 1889, p. 455.

ACT 1978.

Charter of. [Stats. 1875-76, p. 692.]

Amended 1877-78, p. 642. Superseded by charter of 1889, p. 455.

ACT 1979.

Creating board of education and authorizing common council to issue bonds for special school building fund. [Stats. 1871-72, p. 153.]

Superseded by charter of Los Angeles, 1889, p. 456.

ACT 1980.

Authorizing issuance of bonds by, for improvement of irrigation in. [Stats. 1875-76, p. 79.]

ACT 1981.

Issuance of bonds for building a main public sewer. [Stats. 1875-76, p. 398.]

ACT 1982.

Issuance of bonds for improving water supply of. [Stats. 1877-78, p. 387.]

ACT 1983.

Los Angeles Street, issuance of bonds for widening of. [Stats. 1877-78, p. 419.]

Unconstitutional: *Schumacher v. Toberman*, 56 Cal. 510.

ACT 1984.

Ratifying certain acts of council of. [Stats. 1877-78, p. 74.]

ACT 1985.

Board of public works for, creating. [Stats. 1875-76, p. 856.]

Repealed 1877-78, p. 48.

ACT 1986.

Public library, establishing in. Stats. 1873-74, p. 274.]

"Superseded by art. VIII of the charter of Los Angeles, 1889, 483. (*People v. Howard*, 94 Cal. 73.)"—Code Commissioners' Note.

ACT 1987.

Special school law of, amended. [Stats. 1873-74, p. 605.]
Superseded by charter of Los Angeles, 1889, p. 455.

ACT 1988.

Concerning watercourses in. [Stats. 1869-70, p. 645.]

ACT 1989.

An act to provide for the dedication to public use for street purposes of certain lands of the state normal school at Los Angeles; to prescribe the conditions of such dedication; to authorize and empower the board of trustees of said state normal school to convey said lands to the city of Los Angeles to public use for street purposes; and to authorize and empower said board of trustees to make certain changes, alterations and repairs in the buildings and other improvements upon the lands of said state normal school arising out of such dedication. [Approved April 15, 1909. Stats. 1909, p. 931.]

ACT 1990.

An act to provide for an exposition building at Los Angeles in Agricultural Park for the use of all of the counties of this state, for the purpose of maintaining permanent exhibits therein of the resources of the different counties, and to make an appropriation for the construction of said exposition building. [Approved April 22, 1909. Stats. 1909, p. 1076.]

This act appropriated \$250,000 for the purpose indicated.

TITLE 285.**LOS ANGELES COUNTY.**

Better protection of treasures of: See Act 464, ante.

ACT 1993.

Protection of agriculture in, and providing for distraining of trespassing animals. [Stats. 1877-78, p. 164.]

Modified, if not repealed, by the estray laws of 1897, p. 198, and 1901, p. 608.

ACT 1994.

Artesian wells in, act to regulate use of and to prevent waste of water. [Stats. 1875-76, p. 331.]

Repealed 1877-78, p. 196.

ACT 1995.

Assessor, compensation of for collecting personal property tax. [Stats. 1875-76, p. 570.]

Repealed by County Government Act, 1897, p. 496, § 159.

ACT 1996.

Concerning county clerk and surveyor in. [Stats. 1869-70, p. 380.]

This act related to the compensation and fees of these officers: See note to Act 1119, ante.

ACT 1997.

Supervisors to authorize the appointment of a deputy district attorney for. [Stats. 1875-76, p. 15.]

Superseded by County Government Act, 1897, p. 498.

ACT 1998.

El Monte township, Los Angeles County, protection from overflow of San Gabriel River of lands in. [Stats. 1873-74, p. 768.]

ACT 1999.

Grand jurors, fees of. [Stats. 1871-72, p. 37.]

"Probably repealed by the provisions of the constitution dispensing with county courts; or, at all events, superseded by the fee bill of 1895, p. 278, providing for jurors' fees. (Miller v. Curry, 113 Cal. 644; Hilton v. Curry, 124 Cal. 84.)"—Code Commissioners' Note.

ACT 2000.

Highways in. [Stats. 1875-76, p. 30.]

See 1888, p. 5, c. X, § 2; also County Government Act, 1897, p. 452.

ACT 2001.

Highways in. [Stats. 1877-78, p. 6.]

Repealed 1888, p. 5, c. X, § 2.

Citations. Cal. 144/844.

"Probably superseded by 1877-78, p. 716 (see S. P. C. v. Pomona, 144 Cal. 839, 843). See, also, 1888, p. 5, § 2."—Code Commissioners' Note.

ACT 2002.

Relative to highways in. [Stats. 1877-78, p. 716.]

Repealed 1888, p. 5, c. X, § 2.

This was a general law and repealed all prior laws.

Citations. Cal. 144/844.

ACT 2003.

Irrigation, promotion of. [Stats. 1873-74, p. 312.]

"Superseded as to the power to fix water rates by § 1, art. XIV, of the constitution, and statute of 1881, p. 54."—Code Commissioners' Note.

ACT 2004.

Additional justice of peace and constable for. [Stats. 1875-76, p. 3.]

Superseded by Code of Civil Procedure, § 108, as amended 1901, p. 100.

ACT 2005.

Additional notary public for. [Stats. 1873-74, p. 327.]

Superseded by Political Code, § 791.

ACT 2006.

Officers and fees of office in. [Stats. 1873–74, p. 616.]

See §§ 217, 218, 221, County Government Act, 1897, pp. 578, 574.

ACT 2007.

Fees and salaries in. [Stats. 1877–78, p. 574.]

Repealed by County Government Act, 1897, p. 496, § 159, and by the fee bill of 1895, p. 267.

ACT 2008.

Concerning compensation of certain officers of. [Stats. 1871–72, p. 158.]

Amended 1878–74, pp. 842, 848. Superseded and in effect repealed by the County Government Act, 1897, p. 496, § 159, as amended 1901, p. 690.

ACT 2009.

Sheriff, fees of. [Stats. 1875–76, p. 130.]

Repealed by fee bill, 1895, p. 267.

ACT 2010.

To provide for the extermination of squirrels in. [Stats. 1877–78, p. 787.]

Repealed 1880, p. 7.

ACT 2011.

To increase the number of judges of the superior court of. [Stats. 1887, p. 1.]

ACT 2012.

To increase the number of superior judges in. [Stats. 1889, p. 130.]

ACT 2013.

Authorizing supervisors to build bridge across Santa Ana River. [Stats. 1873–74, p. 47.]

ACT 2014.

An act to provide three (3) additional judges of the superior court of the county of Los Angeles, state of California, for the manner of their appointment, and for their compensation. [Approved February 15, 1905. Stats. 1905, p. 9.]

TITLE 286.

LOS NIETOS.

ACT 2018.

Township of, providing for and regulating irrigation in. [Stats. 1877–78, p. 374.]

TITLE 287.

LOS NIETOS COLLEGIATE INSTITUTE.

ACT 2023.

Conferring further powers and privileges on trustees of. [Stats. 1873–74, p. 341.]

TITLE 288.
LOST PROPERTY.

ACT 2028.

Concerning lost money and property. [Stats. 1850, p. 156.]
Superseded by Political Code, §§ 8186-8187, and Penal Code, § 485.

TITLE 289.
LOST WARRANTS.

ACT 2033.

An act to provide for the payment of the controller of state's warrants which have been lost or destroyed previous to payment by the state treasurer.

[Approved March 31, 1891. Stats. 1891, p. 294.]

§ 1. Whenever any warrant legally drawn by the controller of state shall have been lost or destroyed before the same has been paid by the state treasurer, the amount due thereon may be recovered by the legal owner or custodian thereof, by filing with the controller of state:

First. An affidavit setting forth the fact of the loss or destruction of such state warrant, giving the number, date, amount, and name of the payee, together with all material facts relative to the loss or destruction of the same.

Second. A bond of indemnity, with two good and sufficient sureties, in double the amount of the face of the particular warrant, which bond shall be referred to the attorney general and controller of state for approval or rejection.

§ 2. It shall be the duty of the attorney general and of the controller of state to examine and pass upon the sufficiency of the said bond, and to approve or reject the same, within thirty days after it shall have been filed with the controller of state.

§ 3. After the filing of the approved bond, the controller of state is hereby authorized and directed to issue and deliver to the legal owner or claimant, on demand a duplicate warrant for the full amount of the original warrant, and the treasurer of state is hereby authorized and directed to pay the duplicate, in lieu of the original warrant.

§ 4. The controller and treasurer shall each make the proper entries on their books, showing such warrants to have been lost or destroyed, and the issuance of duplicate warrants in lieu thereof.

TITLE 290.
LOTTERIES.

ACT 2038.

To prohibit lotteries, raffles, gifts, etc. [Stats. 1855, p. 99.]
Supplemented 1855, p. 158. Superseded by Stats. 1861, p. 229, and by Penal Code, §§ 819-826.

ACT 2039.

To prohibit lotteries, raffles, gifts, enterprises and other schemes of like character. [Stats. 1861, p. 229.]

Superseded by Penal Code, §§ 319-326.

TITLE 291.**LOWER LAKE.****ACT 2044.**

To prevent hogs from running at large in. [Stats. 1877-78, p. 435.]

Probably repealed by 1897, p. 198.

TITLE 292.**LUMBER MANUFACTURERS.****ACT 2049.**

Lumber manufacturers, protection of. [Stats. 1875-76, p. 32.]

Codified by § 593a of Penal Code. See note to § 593a, Penal Code.

This act prescribed a penalty for driving into logs, etc., any substance sufficiently hard to injure saws.

TITLE 293.**MADERA COUNTY.****ACT 2054.**

To create the county of Madera, to define the boundaries thereof, to determine the county seat, and to provide for its organization and election of officers, and to classify said county. [Approved March 11, 1893. Stats. 1893, p. 168.]

Unconstitutional in part: *People v. Markham*, 104 Cal. 232.

Citations. Cal. 104/232; 142/53, 58; 152/228.

TITLE 294.**MAD RIVER.****ACT 2059.**

To improve Mad River and its north fork and to facilitate the driving of logs therein. [Stats. 1877-78, p. 788.]

TITLE 295.**MANUFACTURES.****ACT 2062.**

An act providing for the labeling or stamping by the manufacturer, vendor, or person, offering for sale any article of hotel, boarding or lodging-house, or domestic or office furniture, the cushions whereof are stuffed in whole or in part with materials made of second-hand or cast-off clothing, rags, or cast-off, or second-hand material of any character, so that the label or stamp shall show the character of the materials with which such articles are so partly made or

stuffed, and making the violation of any of the provisions of this act a misdemeanor.

[Approved March 18, 1909. Stats. 1909, p. 400.]

§ 1. All persons manufacturing in this state, in whole or in part, any article of hotel, boarding-house, lodging-house or domestic or office furniture, or beds or mattresses, or cushions, used or intended to be or that could be used by human beings, that are stuffed or made in whole or in part, with material composed in whole or in part from second-hand or cast-off clothing, rags, or second-hand, or cast-off material of any character whatever, or with shoddy, shall at the time of the completion of such manufacture attach to a conspicuous place upon each of such articles so manufactured by him, a label or stamp showing the correct character of the materials with which the cushion portion of such articles of furniture or beds or cushions or mattresses are stuffed, and no person so manufacturing any such articles shall allow the same or any thereof to leave his possession in the course of trade or business unless such label or stamp is so affixed, and no person shall sell, or offer for sale, in this state any of such articles of furniture, or beds, or mattresses, or cushions, whether the same are manufactured in this state or not, unless such a label or stamp is so affixed.

§ 2. Any person violating any of the provisions of this act shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than fifty, nor more than five hundred dollars, or imprisoned not more than six months, or by both such fine and imprisonment.

TITLE 296.

MAPS.

ACT 2064.

An act requiring the recording of maps of cities, towns, additions to cities or towns, or subdivisions of lands into small lots or tracts for the purposes of sale, and providing a penalty for the selling or offering for sale any lots or tracts in cities, towns, additions to cities, towns, subdivisions, or additions thereto, before such maps are filed and recorded.

[Approved March 9, 1893. Stats. 1893, p. 96.]

Amended 1901, p. 288.

Citations. Cal. 158/799, 802.

§ 1. Whenever any city, town, or subdivision of land into lots, or any addition to any city, town, or such subdivision, shall be laid out into lots for the purposes of sale, the proprietor or proprietors thereof shall cause to be made out an accurate map or plat thereof, particularly setting forth and describing,—

First. All the parcels of ground within such city, town, addition, or subdivision reserved for public purposes, by their boundaries, courses, and extent, whether they be intended for avenues, streets, lanes, alleys, courts, commons, or other public uses; and,

Second. All lots intended for sale, either by number or letter, and their precise length and width.

§ 2. Such map or plat shall be acknowledged by the proprietor, or if any incorporated company, by the chief officer thereof, before some officer authorized by law to take the acknowledgment of conveyances of real estate.

§ 3. The map or plat so made, acknowledged, and certified shall be presented to the governing body having control of the streets, roads, alleys, and highways in the territory shown on the map or plat, and said governing body shall indorse thereon which streets, roads, alleys, and highways, offered by said map or plat, they accept on behalf of the public, and thereupon such streets, roads, alleys, and highways, only as have been thus accepted, shall be and become dedicated to public use. When so indorsed, and not before, said map or plat shall be recorded in the office of the county recorder of the county in which the city, town, addition, or subdivision is situated, in a book kept for that purpose. The map or plat shall be not more than thirty-six inches by thirty-six inches in size, and shall be drawn in all details clearly and legibly, and if not so drawn may be refused by the county recorder. When such map or plat is presented to be recorded the county recorder shall paste the same securely in a book of maps, and it shall then be deemed to have been recorded under the provisions of this act. [Amendment became a law under constitutional provision without governor's approval March 14, 1901. Stats. 1901, p. 288. In effect in sixty days.]

§ 4. Every person who sells or offers for sale any lot within any city, town, subdivision, or addition, before the map or plat thereof is made out, acknowledged, filed, as herein provided, is guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than twenty-five dollars and not more than five hundred dollars, or by imprisonment in the county jail not to exceed six months, or both such fine and imprisonment.

ACT 2065.

An act requiring the recording of maps of subdivisions of land into lots for the purpose of sale, and prescribing the conditions on which such maps may be recorded and prohibiting the selling or offering for sale of land by reference to said maps unless the same are recorded.

[Approved March 15, 1907. Stats. 1907, p. 290.]

Recording tracts of subdivided land. Particular description.

§ 1. Whenever any tract or subdivision of land shall be laid out into lots for the purpose of sale, the owner or owners thereof shall cause to be made out and filed with the county recorder of the county in which the same is situated, an accurate map or plat thereof on cloth particularly setting forth and describing:

First: All parcels of ground within such tract or subdivision offered for dedication for public uses, whether they be intended for public high-

ways, parks, courts, commons or other public uses, and their dimensions and boundaries and the courses of their boundary lines.

Second: All lots intended for sale, or reserved for private purposes and not offered for dedication to the public use, either by number or letter, and their dimensions and boundaries and the courses of their boundary lines. All parcels of land offered for dedication as public highways and not accepted by the proper authorities upon presentation to them, shall also be designated by number or letter.

Third: The exact location of such tract or subdivision of land into lots with reference to adjacent subdivisions of land into lots, the maps or plats of which have been previously recorded, if any, or if none, then with reference to corners of a United States survey, or to some natural or artificial monument.

Size of map.

§ 2. Every such map or plat shall be on cloth and be clearly and legibly drawn in all its details upon tracing cloth of good quality, or other equally durable material, and shall be not more than thirty-six by thirty-six inches in size, and if it occupies more than one sheet the sheets shall be numbered consecutively and each sheet shall contain a reference to the others showing where they connect with it.

Clear title must be shown.

§ 3. Upon every such map or plat there shall be indorsed a consent to the making thereof, signed by the owner or owners of the tract or other subdivision of land shown thereon, and also by all other persons whose consent is necessary to pass a clear title to such land, and acknowledged by all the signers in the same manner as conveyances of real property; also a certificate from the county auditor, and from the auditor or other proper officer of any municipal corporation in which any part of such tract or other subdivision is situated, showing that there are no liens for unpaid state, county, municipal or other taxes, except taxes not yet payable, against said tract or subdivision of land or any part thereof. Upon every such map or plat which shows any parcels of land intended for public use and not previously dedicated therefor, there shall be indorsed a statement of the dedication of such parcels of ground intended for public use, executed by the owner or owners and by all other persons whose consent is necessary to pass a clear title to such parcels of ground to the public, and acknowledged by all persons executing the same in the same manner as conveyances of real property.

Acceptance of public highways.

§ 4. The map or plat so made, indorsed and acknowledged shall, if the same offers for dedication any highway, or portion thereof, be presented to the board of supervisors, board of trustees, city council or other governing body having control of public highways in the territory shown on such map or plat, and said governing body shall indorse thereon which of the public highways offered by said map or plat they accept on behalf of the public, and thereupon such highways as have been so accepted, and no others, shall be and become dedicated to the public use.

Name of plat to be indorsed on map. Duty of recorder.

§ 5. Upon every such map or plat there shall be indorsed a name, title or designation, but no such tract or subdivision of land into lots shall be given any title, name or designation that is the same as the name of any existing city, town, tract or subdivision of land into lots in the same county, of which the map or plat has been previously recorded, or so nearly the same as to mislead the public or cause confusion as to the identity thereof. Whenever any map or plat required by this act to be made shall be presented to a county recorder for filing or recording, he shall examine the title, name or designation indorsed thereon and compare the same with the records in his office, and if he finds that said title, name or designation violates this section in any respect, he shall refuse to file or record such map or plat, whether the same be offered for record as a separate map or as a licensed surveyor's record, or as a part of any deed or other instrument.

Recorder not to accept unauthorized dedication.

§ 6. No map or plat showing any public highways or portion of a public highway not already dedicated to the public use shall be accepted by the recorder for filing or recording, whether offered for record as a separate map or as a licensed surveyor's record or as a part of a deed or other instrument, unless the same shall have been presented and indorsed as required by section 4 of this act. No map or plat referred to in this act shall be accepted by the county recorder for filing or recording unless the same shall in all respects comply with the provisions of this act, and the recorder shall be entitled, before accepting or refusing such map or plat, to sufficient time to enable him to examine the same.

Book of maps.

§ 7. When any map or plat referred to in this act is presented to the county recorder and is received and accepted by him, he shall paste or otherwise fasten the same securely in a book of maps which he shall keep in his office, and it shall be deemed to have been recorded and shall become a public record.

Sale of lots by reference to map.

§ 8. No person shall sell or offer for sale any lot or parcel of land, by reference to any map or plat, unless such map or plat has been made, certified, indorsed, acknowledged and filed in all respects as provided in this act, or was filed or recorded prior to the taking effect of this act and in accordance with the laws in force at the time it was so filed or recorded.

Penalty for violation of act.

§ 9. Every person who violates any of the provisions of this act is guilty of a misdemeanor and upon conviction thereof shall be punishable by a fine of not less than \$25, and not more than \$500, or by imprisonment in the county jail for a period of not more than six months, or by both such fine and imprisonment.

TITLE 297.
MARIN COUNTY.

ACT 2069.

Declaring certain creeks in Marin County navigable. [Stats. 1861, p. 469.]

Amended 1869-70, p. 668.

The act declared Guaymas, San Rafael, Corte Madera, and Sausalito creeks navigable. The amendment of 1869-70 amended the act by omitting Guaymas and Sausalito creeks. The San Rafael and Corte Madera creeks were declared navigable by Political Code, § 2849.

ACT 2070.

For the relief of. [Stats. 1861, p. 121.]

This act provided that when the coroner of Marin County was required to inquire into the death of a convict in state prison, the fees should be a state and not a county charge. It also made the same provision where physicians were called in to inquire into the sanity of a convict at the state prison.

ACT 2071.

Concerning lawful fences in. [Stats. 1858, p. 123.]

ACT 2072.

Compensation of certain officers of. [Stats. 1873-74, p. 433.]

Repealed as to county judges by the constitution of 1879, and as to the other officers by County Government Act, 1897, p. 554, § 195.

ACT 2073.

Election of road overseers in. [Stats. 1877-78, p. 544.]

Repealed by Political Code, § 2642.

ACT 2074.

Superintendent of schools, salary of. [Stats. 1873-74, p. 212.]

Repealed by County Government Act, 1897, p. 553, § 195.

ACT 2075.

Public schools, Dixie district. [Stats. 1873-74, p. 339.]

ACT 2076.

School moneys, distribution of. [Stats. 1875-76, p. 568.]

Superseded by Political Code, § 1858, as amended 1892, p. 264.

ACT 2077.

Restricting the herding of sheep in. [Stats. 1857, p. 227.]

Amended 1858, p. 165; 1859, p. 119; 1860, p. 332; 1869-70, p. 304; 1871-72, p. 890; 1877-78, p. 79.

Continued in force by Pol. Code, § 19. See Stats. 1897, p. 198, and Stats. 1901, p. 603.

ACT 2078.

To prevent stock from running at large upon roads and highways of.
[Stats. 1875-76, p. 482.]

Modified by the estray law of 1897, p. 198, and 1901, p. 608.

ACT 2079.

Tax collector, bond of. [Stats. 1877-78, p. 196.]

Repealed by County Government Act, 1897, p. 475, § 66.

ACT 2080.

Road poll taxes in, collection of. [Stats. 1875-76, p. 180.]

Repealed by Political Code, § 2652, as amended 1891, p. 478.

TITLE 298.**MARIPOSA COUNTY.****ACT 2085.**

Licenses, collection of. [Stats. 1875-76, p. 508.]

Repealed by County Government Act, 1897, p. 452.

ACT 2086.

Regulating salaries of certain officers of. [Stats. 1873-74, p. 83.]

Repealed by County Government Act, 1897, p. 566, § 207.

ACT 2087.

Providing for maintenance and construction of roads and highways in.
[Stats. 1875-76, p. 650.]

Amended 1877-78, p. 277. Repealed 1888, p. 5, c. X, § 2.

ACT 2088.

Treasurers of, bonds of. [Stats. 1875-76, p. 17.]

Repealed by County Government Act, 1897, p. 457, § 66.

ACT 2089.

Authorizing the levy of additional tax in. [Stats. 1873-74, p. 364.]

Superseded by subds. 12 and 18, § 25, County Government Act, 1897, pp. 460, 463.

TITLE 299.**MARKLEEVILLE.****ACT 2094.**

Incorporating Markleeville. [Stats. 1863-64, p. 441.]

TITLE 300.**MARKS AND BRANDS.****ACT 2099.**

Concerning marks and brands. [Stats. 1851, p. 411.]

Amended 1857, p. 181; 1861, 378; 1862, pp. 28, 424. Superseded by Political Code, §§ 8167-8185.

ACT 2110.

To prevent the fraudulent conveyance or encumbrance of realty by married women. [Stats. 1863, p. 750.]

Superseded by Penal Code, § 534.

Citations. Cal. 72/445.

ACT 2111.

To protect the rights of married women in certain cases. [Stats. 1869-70, p. 226.]

Citations. Cal. 49/86; 122/355.

This act related to the earnings and the separate property of married women.

TITLE 302.**MARSHALL MONUMENT.****ACT 2116.**

To provide for the appointment of a guardian for the Marshall monument and grounds, prescribing his duties, and appropriating money therefor. [Approved March 31, 1891. Stats. 1891, p. 424.]

TITLE 303.**MARTINEZ.****ACT 2121.**

Incorporating. [Stats. 1875-76, p. 822.]

Amended 1877-78, p. 297. Superseded by incorporating, in 1884, under Municipal Corporation Act of 1883.

ACT 2122.

Animals running at large in. [Stats. 1873-74, p. 302.]

Superseded by 1875-76, p. 822, § 7. See Stats. 1897, p. 198, and Stats. 1901, p. 603.

ACT 2123.

To provide for the disposition of certain property of the state. [Stats. 1851, p. 307.]

This act released to the town of Martinez the lands covered by Carquines Straits lying opposite it.

TITLE 304.**MARYSVILLE.****ACT 2128.**

Reincorporating. [Stats. 1875-76, p. 149.]

Amended 1877-78, p. 598.

Citations. Cal. 134/501; 143/560, 561. App. 1/630, 632.

ACT 2129.

Levees, construction and repair of. [Stats. 1875-76, p. 131.]

ACT 2130.

Levee indebtedness of, funding of. [Stats. 1875-76, p. 60.]

ACT 2131.

To establish a police court in. [Stats. 1889, p. 214.]

ACT 2132.

Superintendent of public schools, fixing salary of. [Stats. 1873-74, p. 153.]

TITLE 305.**MASTER AND SERVANT.**

See "Laborers"; "Lions," ante.

ACT 2137.

To provide for a day of rest from labor. [Stats. 1893, p. 54.]

This act provided that every employee should have one day in seven for rest.

ACT 2138.

To provide for the proper sanitary condition of factories and workshops, and the preservation of the health of the employees. [Stats. 1889, p. 3.]

Amended 1901, p. 571; 1903, p. 16; 1909, p. 43.

Unconstitutional: See *Schaezlein v. Cabaniss*, 185 Cal. 466.

ACT 2139.

To provide for a lunch hour for laborers in sawmills, shake-mills, shingle-mills, and logging camps. [Stats. 1901, p. 75.]

This act appears in full in Civil Code, Appendix, p. 827.

ACT 2140.

To prevent misrepresentations of conditions of employment, making it a misdemeanor to misrepresent the same, and providing penalties therefor. [Stats. 1903, p. 269.]

This act appears in full in Penal Code, Appendix, p. 884.

ACT 2141.

An act to provide for temporary floors in buildings more than three stories high in the course of construction and for the protection of the life and limb of workmen employed in such buildings from falling through joists or girders and from falling bricks, rivets, etc.

[Approved March 6, 1909. Stats. 1909, p. 107.]

§ 1. Any building more than three stories high in the course of construction shall have the joists, beams or girders of each and every floor below the floor or level where any work is being done or about to be done, covered with flooring laid close together, or with other suitable material, to protect workmen engaged in such building from falling

joists or girders, and from falling bricks, rivets, tools and other substances whereby life and limb are endangered.

§ 2. It shall be the duty of the contractor having charge of such building to provide the flooring as herein required.

§ 3. It shall be the duty of the owner of such building to see that the contractor carries out the provisions of this act.

§ 4. Should the owner of such building let a contract for the construction of the class of building as herein provided to more than one contractor it shall then be the duty of the owner to provide the flooring as herein required.

§ 5. Failure upon the part of the owner or contractor to comply with the provisions of this act shall be deemed a misdemeanor and shall be punishable as such.

TITLE 306.

MAYORS.

ACT 2145.

Providing that in cities of over ten thousand inhabitants, the mayor or other chief executive shall not be required to act as city judge or ex-officio judge of the city court or as justice of the peace; to provide for the abolishment of such city court and the transfer of the business and properties of such city court to the justice of the peace of such city, and to require such justice to finish such business. [Stats. 1887, p. 51.]

This act appears in full in the Appendix to the Code of Civil Procedure, p. 856.

TITLE 307.

MEADOW LAKE.

ACT 2150.

Incorporating town of Meadow Lake. [Stats. 1865-66, p. 372.]

TITLE 308.

MECHANICS' INSTITUTES.

See tit. "Chambers of Commerce."

ACT 2155.

To authorize the Mechanics' Institute of San Francisco to sell, mortgage and convey realty. [Stats. 1863, p. 290.]

TITLE 309.

MEDICINE.

ACT 2160.

An act to regulate medical practice to prevent blindness in infants.

[Approved February 17, 1897. Stats. 1897, p. 12.]

§ 1. Should one or both eyes of an infant become reddened or inflamed at any time within two weeks after birth, it shall be the duty

of the midwife, nurse, or person having charge of said infant, to report the condition of the eyes at once to some legally qualified practitioner of medicine of the city, town, or district in which the parents of the infant reside.

§2. Any failure to comply with the provisions of this act shall be punishable by a fine not to exceed one hundred dollars, or imprisonment not to exceed six months, or both.

§3. This act shall take effect from and after its passage.

ACT 2161.

Practice of medicine, regulating. [Stats. 1875-76, p. 792.]

Amended 1877-78, p. 918. Repealed 1901, p. 64. See post, Acts 2162, 2163. Citations. Cal. 54/95; 71/81; 81/372, 378; 106/296; 122/607.

ACT 2162.

An act for the regulation of the practice of medicine and surgery in the state of California, and for the appointment of a board of medical examiners in the matter of said regulation. [Became a law under constitutional provision without governor's approval, February 27, 1901. Stats. 1901, p. 56.]

Citations. Cal. 148/418, 419; 144/177; 148/590; 151/501, 508; 158/768, 769.

"Constitutional (Ex parte Gerino, 148 Cal. 412). Unconstitutional in part (Hewitt v. Board of Medical Examiners, 148 Cal. 590). See Arwine v. Board of Medical Examiners, XXXIV Cal. Dec. 45. See, also, 1907, 258."—Code Commissioners' Note.

Probably superseded by the act of 1907, p. 252, regulating the practice of medicine. See this act, post, Act 2163.

ACT 2163.

An act for the regulation of the practice of medicine and surgery, osteopathy, and other systems or modes of treating the sick or afflicted, in the state of California, and for the appointment of a board of medical examiners in the matter of said regulation.

[Approved March 14, 1907. Stats. 1907, p. 252.]

Amended 1909, p. 418.

Citations. Cal. 158/768, 769, 771.

Board of medical examiners. Vacancies. Term.

§1. The governor shall appoint a board of medical examiners to be known as the board of medical examiners of the state of California, consisting of eleven members. Such appointments shall be made from separate lists presented to him every second year; five members from a list of ten names presented by the Medical Society of the State of California, two members from a list of four names presented by the California State Homeopathic Medical Society, two members from a list of four names presented by the Eclectic Medical Society of the State of California, and two members from a list of four names presented by the

Osteopathic Association of the State of California. Vacancies occurring in the representation of said societies, respectively, shall be filled by appointment from said lists. The appointment of each member shall be for a term of two years, and until his successor is appointed and qualified; provided, however, that no professor, instructor, or other person in any manner connected with, or financially interested in any college or school of medicine or surgery or osteopathy shall be appointed a member of said board. It shall require the affirmative vote of seven members of said board to carry any motion or resolution to adopt any rule to pass any measure or to authorize the issuance of any certificate as in this act provided.

Oath of office.

§ 2. Each member of said board, shall, before entering upon the duties of his office, take the constitutional oath of office, and shall, in addition, make oath that he is a graduate in medicine and surgery or osteopathy, and a licensed practitioner of medicine and surgery, or of osteopathy, of this state.

Organization. Meetings. Examinations. Report of proceedings.

§ 3. Said board shall organize on or before the first Tuesday of May, 1907, by electing from its number a president, vice-president, secretary and treasurer, who shall hold their respective positions during the pleasure of said board. Said board shall hold its regular meetings in the city and county of San Francisco on the first Tuesday of April, August, and December of each year, with power of adjournment from time to time until its business is concluded; provided, however, that examinations of applicants for certificates may, in the discretion of the board, be conducted in any part of the state designated by the board. Notice of each regular meeting of the board shall be given by publication twice a week for each of the two weeks next preceding each meeting, in two daily papers published in the city of San Francisco, in one daily paper published in the city of Sacramento, and one daily paper published in the city of Los Angeles, which notice shall also specify the time and place of holding the examination of applicants. Special meetings of the board may be held at such time and place as the board may designate, and the same notice thereof shall be given as in case of regular meetings. Said board shall receive through its secretary applications for the certificates provided to be issued by this act, and shall on or before the first day of January of each year transmit to the governor a full report of all its proceedings, together with a report of its receipts and disbursements.

Office of board.

§ 4. The office of said board shall be in the city and county of San Francisco, and in all legal proceedings against the board the said city and county shall be deemed to be the residence of the members thereof.

Rules.

§ 5. Said board may from time to time adopt such rules as may be necessary to enable it to carry into effect the provisions of this act.

Any member of said board may administer oaths in all matters pertaining to the duties of said board, and the board shall have authority to take evidence in any matter cognizable by it.

Forms of certificates. How to procure certificate. Examination.

§ 6. Three forms of certificate shall be issued by said board under the seal thereof and signed by the president and the secretary; first, a certificate authorizing the holder thereof to practice medicine and surgery; second, a certificate authorizing the holder thereof to practice osteopathy; third, a certificate authorizing the holder thereof to practice any other system or mode of treating the sick or afflicted not referred to in this section.

In order to procure a certificate to practice medicine and surgery, the applicant for such certificate must file with said board at least two weeks prior to a regular meeting thereof, satisfactory testimonials of good moral character, and a diploma issued by some legally chartered medical school, the requirements of which shall have been at the time of granting such diploma in no particular less than those prescribed by the Association of American Medical Colleges for that year, or satisfactory evidence of having possessed such diploma, and he must also file with said diploma an application sworn to before some person authorized to administer oaths, and attested by the hand and seal of such officer, if he have a seal, stating that he is the person named in said diploma, that he is the lawful holder thereof, and that the same was procured in the regular course of instruction and examination, without fraud or misrepresentation. The said application shall be made upon a blank furnished by said board, and it shall contain such information concerning the medical instruction and the preliminary education of the applicant as said board may by rule provide. Applicants who have failed to meet the above requirements must be rejected. Applicants for a certificate to practice osteopathy shall be subject to the above regulations, except that in place of the diploma hereinbefore referred to, they shall be required to file a diploma from a legally chartered college of osteopathy, having a course of instruction of at least twenty months, requiring actual attendance, and after 1908, of three years of nine months each, and including the studies examined upon under this act. Applicants for a certificate to practice any other system or mode of treatment not in this act referred to, shall be subject to the above regulations, except that in place of the diplomas hereinbefore referred to, they shall be required to file a diploma from a legally chartered college of the system or mode of treatment which the applicant claims or intends to follow.

In addition to the requirements above set forth, all applicants for a certificate must be personally examined by said board as to their qualifications. The examination shall be conducted in the English language, shall be practical in character and designed to discover the applicant's fitness to practice his profession, and shall be, in whole or in part, in writing on the following fundamental subjects, to wit: Anatomy, histology, gynecology, pathology, bacteriology, chemistry and toxicology

physiology, obstetrics, general diagnosis, hygiene. Examinations in each subject shall consist of not less than ten questions, answers to which shall be marked upon a scale of zero to ten. But all applicants must obtain not less than a general average of seventy-five per cent and not less than sixty per cent in any one subject; provided, that applicants who can show at least ten years of reputable practice shall be granted a credit of five per cent upon the general average, and five per cent additional for each subsequent ten years of such practice.

The examination papers shall form a part of the records of the board and shall be kept on file by the secretary for a period of one year after each examination. In said examination the applicant shall be known and designated by number only, and the name attached to the number shall be kept secret until after the board has finally voted upon the application. The secretary of the board shall in no instance participate as an examiner in any examination held by the board.

§ 7. Each applicant on making application shall pay to the secretary of the board a fee of twenty-five (25) dollars, which shall be paid to the treasurer of the board by said secretary. In case the applicant's credentials are insufficient, or in case he does not desire to take the examination, the sum of ten (10) dollars will be retained, the remainder of the fee being returnable on application.

Record.

§ 8. Said board shall keep an official record of all its proceedings, a part of which record shall consist of a register of all applicants for certificates under this act, with the result of each application. Said record shall be evidence of all the proceedings of said board which are set out therein.

Certificates to be recorded by county clerk.

§ 9. Every person holding a certificate authorizing him to practice medicine and surgery, or osteopathy, or any other system or mode of treating the sick or afflicted, in this state, must have it recorded in the office of the county clerk of the county in which the holder of said certificate is practicing his profession, and the fact of such recording shall be indorsed on the certificate by the county clerk recording the same. Every such person, on each change of his residence must have his certificate recorded in the county to which he shall have changed his residence. The absence of such record shall be prima facie evidence of the want of possession of such certificate. And any person holding a certificate who shall practice medicine or surgery or osteopathy, or any other system or mode of treating the sick or afflicted, in this state, or to attempt to practice medicine or surgery or osteopathy, or any other system or mode of treating the sick or afflicted, in this state, without first having filed his certificate with the county clerk as herein provided, shall be deemed guilty of a misdemeanor and shall be punished by a fine of not less than twenty-five dollars nor more than one hundred dollars or by imprisonment for a period of not less than thirty days nor more than sixty days, or by both such fine and imprisonment.

County clerk to keep record.

§ 10. The county clerk shall keep in a book provided for the purpose a complete list of the certificates recorded by him, with the date of the record; and said book shall be open to public inspection during his office hours.

Unprofessional conduct. Hearing of charges.

§ 11. Said board must refuse a certificate to any applicant guilty of unprofessional conduct; but before such refusal the applicant must be cited by citation, signed by the secretary of the board, and sealed with its seal. No such citation shall be issued except upon a sworn complaint filed with the secretary of the board, charging the applicant with having been guilty of unprofessional conduct, and setting forth the particular acts constituting such unprofessional conduct. On the filing of such complaint the secretary must forthwith issue a citation and make the same returnable at the next regular session of said board, occurring at least thirty days next after filing the complaint. Such citation shall notify the applicant of the time and place, when and where the matter of said unprofessional conduct shall be heard, the particular unprofessional conduct with which the applicant is charged, and that the applicant shall file his written answer, under oath, within twenty days next after the service on him of said citation, or default will be taken against him, and his application for a certificate refused. The attendance of witnesses at such hearing shall be compelled by subpoenas issued by the secretary of the board, under its seal; and said secretary shall in no case refuse to issue any such subpoena, upon a fee of twenty cents being paid him for each subpoena. Said citation and said subpoenas shall be served in accordance with the statutes of this state then in force as to the service of citations and subpoenas generally, and all provisions of the statutes of this state then in force relating to subpoenas are hereby made applicable to the subpoenas provided for herein. If any person refuse to obey a subpoena served upon him in accordance with the statutes of this state then in force providing for the manner of serving subpoenas, the fact of such refusal shall be certified by the secretary of said board, under the seal thereof, to the superior court of the county in which the service was had, and said court shall thereupon proceed to hear said matter in accordance with the statutes of this state then in force as to contempts for disobedience of process of the court; and should said court find that the subpoena has been legally served, and that the party so served has willfully disobeyed the same, it shall proceed to impose such penalty as provided in cases of contempt of court. In all cases of alleged unprofessional conduct arising under this act, depositions of witnesses may be taken, the same as in civil cases, and all the provisions of the statutes of this state then in force as to the taking of depositions are hereby made applicable to the taking of depositions under this act. If the applicant shall fail to file with the secretary of said board his answer, under oath, to the charges made against him, within twenty days after service on him of said citation, or within such further time as the board may give him,

and the charges on their face be deemed sufficient by the board, default shall be entered against him, and his application refused. If the charges on their face be deemed sufficient by the board, and issue be joined thereon by answer, the board shall proceed to determine the matter, to that end shall hear such evidence as may be adduced before it; and if it appear to the satisfaction of the board that the applicant is guilty as charged, no certificate shall be issued to him. No certificate shall be refused on the ground of unprofessional conduct unless the applicant has been guilty of such conduct within two years next preceding his application. Whenever any holder of a certificate herein provided for is guilty of unprofessional conduct, as the same is defined in this act, and the said unprofessional conduct has been brought to the attention of the board granting said certificate, in the manner hereinafter pointed out, or whenever a certificate has been procured by fraud or misrepresentation, or issued by mistake, it shall be their duty to, and they must, revoke the same at once, and the holder of said certificate shall not be permitted to practice medicine or surgery, or osteopathy, or any other system or mode of treating the sick or afflicted, in this state. But no such revocation shall be made unless such holder is cited to appear and the same proceedings are had as is hereinbefore provided in this section in case of refusal to issue certificates. Said secretary in all cases of revocation shall enter on his register the fact of such revocation and shall certify the fact of such revocation under the seal of the board, to the county clerk of the counties in which the certificate of the person whose certificate has been revoked, is recorded; and said clerk must thereupon write upon the margin or across the face of his register of the certificate of such person, the following: "This certificate was revoked on the — day of —," giving the day, month and year of such revocation in accordance with said certification to him by said secretary. The record of such revocation so made by said county clerk shall be prima facie evidence of the fact thereof, and of the regularity of all the proceedings of said board in the matter of said revocation. From the time of the revocation of a certificate the holder thereof shall be disqualified from practicing medicine or surgery, osteopathy, or any other system or mode of treating the sick or afflicted, in this state.

The words "unprofessional conduct," as used in this act, are hereby declared to mean:

First—The procuring, or aiding or abetting in procuring a criminal abortion.

Second—The willfully betraying a professional secret.

Third—All advertising of medical business which is intended or has a tendency to deceive the public or impose upon credulous or ignorant persons, and so be harmful or injurious to public morals or safety.

Fourth—All advertising of any medicine or of any means whereby the monthly periods of women can be regulated or the menses re-established if suppressed.

Fifth—Conviction of any offense involving moral turpitude, in which case the record of such conviction shall be conclusive evidence.

Sixth—Habitual intemperance.

Seventh—The personation of another licensed practitioner of a like or different name.

Expenses and salaries.

§ 12. Said board shall have the power to employ legal counsel and clerical assistance and to fix the salaries of the same and to incur such other expenses as may be deemed necessary to carry into effect the provisions of this act. It shall also fix the salary of the secretary, not to exceed the sum of twelve hundred dollars (\$1200) per annum, and the sum to be paid to other members of said board, not to exceed ten (10) dollars per diem each, for each and every day of actual service in the discharge of official duties; and said board may, in its discretion, add to said sums necessary traveling expenses. All money in excess of the actual expenses of the board shall be paid annually into the state treasury.

Illegal practice. Penalty.

§ 13. Any person who shall practice or attempt to practice or advertise or hold himself out as practicing medicine or surgery, osteopathy, or any other system or mode of treating the sick or afflicted, in this state, without having, at the time of so doing, a valid, unrevoked certificate, as provided in this act, shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not less than one hundred (100) dollars, nor more than five hundred (500) dollars, or by imprisonment for a term of not less than sixty (60) days, nor more than one hundred and eighty (180) days, or by both such fine and imprisonment. In each such conviction the fine shall be paid, when collected, to the state treasurer, and shall constitute a special fund for the prosecution of illegal practitioners as defined in this act, the said fund to be paid to the said board upon warrants drawn therefor by its secretary, and the said board is authorized to prosecute all persons guilty of a violation of the provisions of this section.

False registration.

§ 14. Every person filing for record, or attempting to file for record, the certificate issued to another, falsely claiming himself to be the person named in such certificate, or falsely claiming himself to be the person entitled to the same, shall be guilty of a felony, and, upon conviction thereof, shall be subject to such penalties as are provided by the laws of this state for the crime of forgery.

False representation.

§ 15. Any person assuming to act as a member of the state board of medical examiners without so being, or who shall sign, or subscribe, or issue, or cause to be issued, or seal or cause to be sealed, a certificate authorizing any person to practice medicine or surgery, or osteopathy, or any other system or mode of treating the sick or afflicted, in this state, shall be guilty of a misdemeanor, and shall be punished by a fine of not less than one hundred dollars, nor more than five hundred

dollars, or by imprisonment for a term of not less than sixty nor more than one hundred and eighty days, or by both such fine and imprisonment.

Previous registration.

§ 16. A person who holds a certificate from the board of medical examiners created by, "An act for the regulation of the practice of medicines and surgery, in the state of California, and for the appointment of a board of medical examiners in the matter of such regulation," which took effect August the first, nineteen hundred and one, or from one of the boards of examiners heretofore existing, under the provisions of "An act to regulate the practice of medicine in the state of California," approved April third, eighteen hundred and seventy-six, or an act supplemental and amendatory to said act, which became a law April first, eighteen hundred and seventy-eight, shall be entitled to practice medicine and surgery in this state, the same as if it had been issued under this act; any person who holds a certificate from the board of osteopathic examiners of the state of California, under the provisions of "An act to regulate the practice of osteopathy in the state of California, and to provide for a state board of osteopathic examiners, and to license osteopaths to practice in this state, and to punish persons violating the provisions of this act," which became a law under constitutional provisions, without the governor's approval, March ninth, nineteen hundred and one, shall be entitled to practice osteopathy in this state, the same as if it had been issued under this act. Any person who holds an unrevoked certificate issued by the board of examiners of the Association of Naturopaths of California, incorporated under the laws of the state of California, August eight, 1904, and who shall be practicing naturopathy prior to the passage of this act, shall be entitled to practice naturopathy in this state, the same as if it had been issued under this act. The board of medical examiners shall indorse said certificate at their first meeting after this act becomes a law, or at any subsequent meeting of the board, but not later than six months after the passage of this act by signature of its president and secretary and affixing its official seal. Provided, however, that the holder of such certificate has signed his or her name on the back of said certificate and the president and secretary of the Association of Naturopaths of California, have certified over their respective signatures that the holder, of said certificate is the rightful owner of same. But all certificates herein mentioned may be revoked for any unprofessional conduct, in the same manner and upon the same grounds as if they had been issued under this act. [Amended 1909; Stats. 1909, p. 418.]

Emergency services. Particular schools of medicine.

§ 17. Nothing in this act shall be so construed as to inhibit service in the case of emergency, or to the domestic administration of family remedies; nor shall this act apply to any commissioned medical officer in the United States army, navy or marine hospital service, in the discharge of his official duties; nor to any licensed dentist when engaged

exclusively in the practice of dentistry. Nor shall this act apply to any practitioner from another state or territory, when in actual consultation with a licensed practitioner of this state, if such practitioner is, at the time of such consultation, a licensed practitioner in the state or territory in which he resides; provided, that such practitioner shall not open an office or appoint a place to meet patients or receive calls within the limits of this state. Nor shall this act be construed so as to discriminate against any particular school of medicine or surgery or osteopathy, or any other system or mode of treating the sick or afflicted, or to interfere in any way with the practice of religion; provided, that nothing herein shall be held to apply or to regulate any kind of treatment by prayer.

Conflicting acts repealed.

§ 18. *Repeal.* All acts, or parts of acts, in any wise conflicting with the provisions of this act, are hereby repealed.

§ 19. This act shall take effect from and after the first day of May, nineteen hundred and seven.

TITLE 310.

MENDOCINO COUNTY.

ACT 2167.

Big River township, purchase and construction of free bridges in. [Stats. 1873-74, p. 544.]

Amended and supplemented 1878-74, p. 791.

ACT 2168.

Purchase and erection of bridges in, building and improvement of roads. [Stats. 1875-76, p. 376.]

ACT 2169.

Providing for disposal of lots in towns on the public lands in. [Stats. 1860, p. 287.]

Superseded by 1867-68, p. 487.

This act was passed to carry out the provisions of an act of Congress for the relief of citizens of towns on the public lands.

ACT 2170.

Fixing salaries of certain officers of. [Stats. 1873-74, p. 174.]

Amended 1877-78, p. 188. Repealed by County Government Act, 1897, p. 525, § 174.

This act fixed the salaries of sheriff, county clerk, and recorder.

ACT 2171.

Regulating fees of certain officers of. [Stats. 1873-74, p. 539.]

Repealed by County Government Act, 1897, p. 525, § 174, and fee bill of 1895, p. 267.

ACT 2172.

Repealing all special road laws in. [Stats. 1873-74, p. 359.]

ACT 2173.

To provide for the election of supervisors in. [Stats. 1877-78, p. 1021.]
Repealed by County Government Act, 1897, p. 452.

TITLE 311.
MENLO PARK.

ACT 2178.

Incorporation. [Stats. 1873-74, p. 533.]
Repealed 1875-76, p. 400.

TITLE 312.
MERCED CITY.

ACT 2183.

Protection against fire in. [Stats. 1877-78, p. 214.]

TITLE 313.
MERCED COUNTY.

ACT 2188.

Separating office of county recorder from county clerk, and regulating the salaries of certain officers in. [Stats. 1873-74, p. 660.]

Amended 1877-78, pp. 107, 187. Repealed by County Government Act, 1897, p. 557, § 198.

ACT 2189.

Licenses, collection of. [Stats. 1875-76, p. 508.]
Repealed by County Government Act, 1897, p. 452.

ACT 2190.

Collection of poll taxes in. [Stats. 1877-78, p. 837.]
Repealed by Political Code, § 2652.

ACT 2191.

Public administrator, bonds of. [Stats. 1872-72, p. 21.]
Superseded by County Government Act, 1897, p. 475, § 66.

ACT 2192.

Authorizing the supervisors to sell and convey the courthouse block and buildings in the town of Snelling. [Stats. 1873-74, p. 239.]

ACT 2193.

Witness fees in. [Stats. 1873-74, p. 732.]
Repealed 1875-76, p. 498.

TITLE 314.
MEXICAN WAR.

ACT 2197.

Authorizing trustees of Associated Veterans of, to exchange certain lands for certain other property belonging to the city and county of San Francisco, or for a lease of such property. [Stats. 1871-72, p. 363.]
Amended 1881, p. 66.

TITLE 315.
MILITARY ACADEMY.

ACT 2200.

An act to furnish arms for the use of military academies in the state.
[Approved February 20, 1872. Stats. 1871-72, p. 121.]

Military academies. Majors.

§ 1. That when a military academy has been established within the state, having not less than eighty boys, uniformed, drilled, and instructed in strict accordance with the tactics of the regular United States army service, and all its course of education and economy conducted upon strict military principles, the military instructor of such academy, when regularly elected by the board of trustees or other lawful authority of the academy, be commissioned in the national guard of California, with the rank of major.

Bond and issue of arms, etc.

§ 2. That upon giving bond, with good security, to be approved by the county judge of the county where the academy is situated, conditioned for the safekeeping against fire, loss and against all damages, in twice the value, that arms and accoutrements, the property of the state, be issued for the use of such military academy.

Requisition.

§ 3. The adjutant-general of the state is hereby authorized to issue such arms and accoutrements as may be needed by the said military academies, without a monthly allowance, in the same manner as arms and accoutrements are issued to regular organized companies of the national guard of California, upon requisition made for this purpose, approved by the commander-in-chief.

§ 4. This act shall take effect immediately.

TITLE 316.
MINERAL CABINET.

ACT 2205.

To provide for the establishment of a cabinet department in the state library. [Approved April 1, 1872. Stats. 1871-72, p. 824.]

See note to Act 3844, post.

ACT 2206.

To provide for the removal of the mineral cabinet from the state library.
[Stats. 1887, p. 74.]

This act provided for the removal of the cabinet to the Crocker Art Gallery and the appointment of trustees of the mineral cabinet.

TITLE 317.

MINES AND MINING.

ACT 2211.

Establishment and maintenance of a mining bureau. [Stats. 1880, p. 115.]

Supp. 1885, p. 217. Repealed 1898, p. 207. See Stats. 1898, p. 203.

ACT 2212.

Supplemental to act providing for mining bureau. [Stats. 1885, p. 217.]
Repealed 1898, p. 207.

ACT 2213.

To provide for the establishment of a state mining bureau. [Stats. 1893, p. 203.]

Amended 1903, p. 118; 1907, p. 935.

ACT 2214.

Appropriation to be used in the construction of works for restraining and impounding debris. [Stats. 1901, p. 7.]

This act appropriated \$150,000 for the above purpose.

ACT 2215.

An act to provide in whose name title shall be taken to the site or sites for the construction of the works provided for in the act of the legislature of the state of California entitled "An act to provide for the appointment, duties and compensation of a debris commissioner, and to make an appropriation to be expended under his directions in the discharge of his duties as such commissioner," approved March 24, 1893, and the amendments thereto.

[Approved March 13, 1901. Stats. 1901, p. 282.]

§ 1. The title, estate and interests in all sites purchased under the act of the legislature of the state of California entitled "An act to provide for the appointment, duties and compensation of a debris commissioner, and to make an appropriation to be expended under his directions in the discharge of his duties as such commissioner," approved March twenty-fourth, eighteen hundred and ninety-three, and the amendments thereto, for the construction of the works in said acts contemplated, shall be taken in the name of the government of the United States of America.

§ 2. This act shall take effect immediately.

ACT 2216.

Prescribing the manner of locating mining claims upon the public domain of the United States, recording notices of location thereof, amending defective locations, and providing for the deposit of district records with county recorders, and prescribing the effect to be given to recordation of notices of location and affidavits. [Approved March 27, 1897. Stats. 1897, p. 214.]

Repealed 1899, p. 148; 1900, p. 9.

Citations. Cal. 125/193; 129/862, 433, 435; 181/563; 145/14, 17, 18, 19, 22, 24, 26; 149/861.

ACT 2217.

To protect owners of crops, buildings, and improvements in the mining districts. [Stats. 1855, p. 145.]

Unconstitutional in part: *Gillan v. Hutchinson*, 16 Cal. 158.

This act protected the owners of growing crops from injury by miners.

ACT 2218.

To secure to the miners of this state pure and unadulterated quicksilver. [Stats. 1865-66, p. 191.]

This act is not in terms repealed, although as to the criminal portion it is superseded by the Penal Code, §§ 866, 867. It is difficult to determine how much, if any, of the balance remains in force. Under any circumstances it is regarded as of sufficient importance to refer to it here.

ACT 2219.

Concerning partnerships for mining purposes. [Stats. 1865-66, p. 828.]

This act has not been in terms repealed, and in the absence of direct legislation it is difficult to tell whether it is in force or not.

ACT 2220.

Providing for conveyance of mining claims. [Stats. 1860, p. 175.]

Amended 1868, p. 98.

"Probably repealed by § 1091 et seq., Civil Code. If not, then modified as to corporations by 1880, p. 181."—Code Commissioners' Note.

ACT 2221.

An act to provide for the covering or fencing of abandoned mining shafts, pits or excavations, the penalty, and also the penalty for removing or destroying the covering or fencing from same.

[Approved March 20, 1903. Stats. 1903, p. 283.]

§ 1. All abandoned mining shafts, pits or other abandoned excavations dangerous to passers by or livestock shall be securely covered or fenced, and kept so, by the owners of the land or persons in charge of the same, on which such shafts, pits or other excavations are located. Any person or persons failing to comply with the provisions of this section shall be deemed guilty of a misdemeanor.

§2. All abandoned mining shafts, pits or other excavations situated on unoccupied public lands may be securely covered or fenced by order of the board of supervisors of the county wherein the same is situated, and it shall be the duty of the board of supervisors to keep the same securely fenced or covered whenever it appears to them, by proof submitted, that the same is dangerous or unsafe to man or beast. The cost of said covering or fencing to be a county charge.

§3. Any person or persons maliciously removing or destroying any covering or fencing placed around or over any shaft, pit or other excavation, as hereinbefore provided, shall be deemed guilty of a misdemeanor.

§4. This act shall take effect six months from the day of passage.

ACT 2222.

An act for the protection of miners.

[Approved March 16, 1872. Stats. 1871-72, p. 413.]

Protection to miners.

§1. It shall not be lawful for any corporation, association, owner, or owners of any quartz-mining claims within the state of California, where such corporation, association, owner or owners employ twelve men daily, to sink down into such mine or mines any perpendicular shaft or incline beyond a depth from the surface of three hundred feet without providing a second mode of egress from such mine, by shaft or tunnel, to connect with the main shaft at a depth of not less than one hundred feet from the surface.

Modes of escape.

§2. It shall be the duty of each corporation, association, owner, or owners of any quartz mine or mines in this state, where it becomes necessary to work such mines beyond the depth of three hundred feet, and where the number of men employed therein daily shall be twelve or more, to proceed to sink another shaft or construct a tunnel so as to connect with the main working-shaft of such mine as a mode of escape from underground accident, or otherwise. And all corporations, associations, owner, or owners of mines as aforesaid, working at a greater depth than three hundred feet, not having any other mode of egress than from the main shaft, shall proceed as herein provided.

Liabilities.

§3. When any corporation, association, owner, or owners of any quartz mine in this state shall fail to provide for the proper egress as herein contemplated, and therein shall be hurt or injured, and from such injury might have escaped if the second mode of egress had existed, such corporation, association, owner or owners of the mine where the injuries shall have occurred shall be liable to the person injured in all damages that may accrue by reason thereof; and an action at law

in a court of competent jurisdiction may be maintained against the owner or owners of such mine, which owners shall be jointly or severally liable for such damages. And where death shall ensue from injuries received from any negligence on the part of the owners thereof, by reason of their failure to comply with any of the provisions of this act, the heirs or relatives surviving the deceased may commence an action for the recovery of such damages as provided by an act entitled an act requiring compensation for causing death by wrongful act, neglect, or default, approved April twenty-sixth, eighteen hundred and sixty-two.

§ 4. This act shall take effect and be in force six months from and after its passage.

ACT 2223.

An act for the protection of coal mines and coal miners. [Approved March 27, 1874. Stats. 1873-74, p. 726.]

Map.

§ 1. The owner or agent of every coal mine shall make or cause to be made an accurate map or plan of the workings of such coal mine, on a scale of one hundred feet to the inch.

Copies.

§ 2. A true copy of which map or plan shall be kept at the office of the owner or owners of the mine, open to the inspection of all persons, and one copy of such map or plan shall be kept at the mines by the agent or other person having charge of the mines, open to the inspection of the workmen.

Shafts or outlets.

§ 3. The owner or agent of every coal mine shall provide at least two shafts, or slopes, or outlets, separated by natural strata of not less than one hundred and fifty feet in breadth, by which shafts, slopes, or outlets distinct means of ingress and egress are always available to the persons employed in the coal mine; provided, that if a new tunnel, slope, or shaft will be required for the additional opening, work upon the same shall commence immediately after the passage of this act, and continue until its final completion, with reasonable dispatch.

Ventilation.

§ 4. The owner or agent of every coal mine shall provide and establish for every such mine an adequate amount of ventilation, of not less than fifty-five cubic feet per second of pure air, or thirty-three hundred feet per minute, for every fifty men working in such mine, and as much more as circumstances may require, which shall be circulated through to the face of each and every working place throughout the entire mine, to dilute and render harmless and expel therefrom the noxious, poisonous gases, to such an extent that the entire mine shall be in a fit state for men to work therein, and be free from danger to

the health and lives of the men by reason of said noxious and poisonous gases, and all workings shall be kept clear of standing gas.

Inside overseer. Duties.

§ 5. To secure the ventilation of every coal mine, and provide for the health and safety of the men employed therein, otherwise and in every respect, the owner, or agent, as the case may be, in charge of every coal mine, shall employ a competent and practical inside overseer, who shall keep a careful watch over the ventilating apparatus, over the air-ways, the traveling-ways, the pumps and sumps, the timbering, to see as the miners advance in their excavations that all loose coal, slate, or rock overhead is carefully secured against falling; over the arrangements for signaling from the bottom to the top, and from the top to the bottom of the shaft or slope, and all things connected with and appertaining to the safety of the men at work in the mine. He, or his assistants, shall examine carefully the workings of all mines generating explosive gases, every morning before the miners enter, and shall ascertain that the mine is free from danger, and the workmen shall not enter the mine until such examination has been made and reported, and the cause of danger, if any, be removed.

§ 6. The overseer shall see that hoisting machinery is kept constantly in repair and ready for use, to hoist the workmen in or out of the mine.

Owner.

§ 7. The word "owner" in this act shall apply to lessee as well.

Right of action.

§ 8. For any injury to person or property occasioned by any violation of this act, or any willful failure to comply with its provisions, a right of action shall accrue to the party injured for any direct damages he or she may have sustained thereby, before any court of competent jurisdiction.

Liability.

§ 9. For any willful failure or negligence on the part of the overseer of any coal mine, he shall be liable to conviction of misdemeanor, and punished according to law; provided, that if such willful failure or negligence is the cause of the death of any person, the overseer, upon conviction, shall be deemed guilty of manslaughter.

Boilers.

§ 10. All boilers used for generating steam in and about coal mines shall be kept in good order, and the owner or agent thereof shall have them examined and inspected, by a competent boiler-maker, as often as once in three months.

§ 11. This act shall not apply to opening a new coal mine.

§ 12. This act shall take effect immediately.

ACT 2224.

An act to provide a state hospital and asylum for miners. [Approved March 14, 1881. Stats. 1881, p. 81.]

Erection of state hospital for miners.

§ 1. There shall be erected, as soon as conveniently may be, upon some suitable site, to be determined and obtained as is hereinafter provided, a public hospital and asylum for the reception, care, medical, and surgical treatment, and relief of the sick, injured, disabled, and aged miners, which shall be known as the "California State Miners' Hospital and Asylum."

Trustees of, how appointed.

§ 2. The governor shall nominate, and by and with the advice and consent of the senate appoint five persons to serve as trustees of the said institution, who shall be a body politic and corporate by the name and style of the "Trustees of the California State Miners' Hospital and Asylum," and shall manage and direct the concerns of the institution, and make all necessary by-laws and regulations, and shall have power to receive, hold, dispose of, and convey all real and personal property conveyed to them by gift, devise, or otherwise, for the use of said institution, and shall serve without compensation. Of those first appointed, two shall serve for two years, and three for four years; and at the expiration of the respective terms, each class thereafter shall be appointed for four years. A vacancy in said board, from any cause, shall be filled by appointment by the governor for the unexpired term.

Superintendent, how appointed.

§ 3. The said trustees shall have charge of the general interests of the institution; they shall appoint the superintendent, who shall be a skillful physician and surgeon, subject to removal or re-election no oftener than in periods of ten years, except by infidelity to the trust reposed in him, or for incompetency.

By-laws.

§ 4. The trustees, by and with the consent of the governor, shall make such by-laws and regulations for the government of the institution as shall be necessary; they shall appoint a treasurer, who shall give bonds to the people of the state of California for the faithful discharge of his duties; and they shall fix the compensation of all officers, assistants, and attaches, who may be necessary for the just and economical administration of the affairs of said institution.

Charges for medical attendance.

§ 5. Indigent miners shall be charged for medical attendance, surgical operations, board, and nursing while residents in the hospital and asylum, no more than the actual cost; paying patients, whose friends can pay their expenses, and who are not chargeable upon townships and counties, shall pay according to the terms directed by the trustees.

Powers of boards of supervisors.

§ 6. The several boards of supervisors of counties, or any constituted authority in the state having care and charge of any indigent sick, or aged person or persons, if satisfactorily proven by them to have been miners, shall have authority to send to the "California State Miners' Hospital and Asylum" such persons, and they shall be severally chargeable with the expenses of the care, maintenance, and treatment, and removal to and from the hospital and asylum of such patients.

Trustees to report.

§ 7. The trustees shall annually, at such time as the governor may designate, report to him, for transmission to the legislature, such a statement as he may require as to the management of the said hospital and asylum.

§ 8. This act shall take effect immediately.

ACT 2225.

An act to establish a uniform system of mine bell signals, to be used in all mines operated in the state of California, and for the protection of miners.

[Approved March 8, 1893. Stats. 1893, p. 82.]

Citations. Cal. 149/44.

See *Manning v. App Cons. G. M. Co.*, 149 Cal. 85.

§ 1. Every person, company, corporation, or individual operating any mine within the state of California—gold, silver, copper, lead, coal, or any other metal or substance where it is necessary to use signals by means of bell or otherwise for shafts, inclines, drifts, crosscuts, tunnels, and underground workings—shall, after the passage of this bill, adopt, use, and put in force the following system or code of mine bell signals, as follows:

1 bell, to hoist. (See rule 2.)

1 bell to stop if in motion.

2 bells to lower. (See rule 2.)

3 bells, man to be hoisted; run slow. (See rule 2.)

4 bells, start pump, if not running, or stop pump if running.

1—3 bells, start or stop air compressor.

5 bells, send down tools. (See rule 4.)

6 bells, send down timbers. (See rule 4.)

7 bells, accident; move bucket or cage by verbal orders only.

1—4 bells, foreman wanted.

2—1—1 bells, done hoisting until called.

2—1—2 bells, done hoisting for the day.

2—2—2 bells, change buckets from ore to water, or vice versa.

3—2—1 bells, ready to shoot in the shaft. (See rule 3.)

Engineer's signal, that he is ready to hoist, is to raise the bucket or cage two feet and lower it again. (See rule 3.)

Levels shall be designated and inserted in notice hereinafter mentioned. (See rule 5.)

§ 2. For the purpose of enforcing and properly understanding the above code of signals, the following rules are hereby established:

Rule 1. In giving signals make strokes on bell at regular intervals. The bar (—) must take the same time as for one stroke of the bell, and no more. If timber, tools, the foreman, bucket, or cage, are wanted to stop at any level in the mine, signal by number of strokes on the bell, the number of the level first before giving the signal for timber, tools, etc. Time between signals to be double bars (— —). Examples:

6 — — 5, would mean stop at sixth level with tools.

4 — — 1—1—1— —1, would mean stop at fourth level, man on, hoist.

2 — — 1—4, would mean stop at second level with foreman.

Rule 2. No person must get off or on the bucket or cage while the same is in motion. When men are to be hoisted, give the signal for men. Men must then get on bucket or cage, then give the signal to hoist. Bell-cord must be in reach of man on the bucket or cage at stations.

Rule 3. After signal "Ready to shoot in shaft," engineer must give his signal when he is ready to hoist. Miners must then give the signal of "Men to be hoisted," then "spit fuse," get into the bucket, and give the signal to hoist.

Rule 4. All timbers, tools, etc., "longer than the depth of the bucket," to be hoisted or lowered, must be securely lashed at the upper end to the cable. Miners must know they will ride up or down the shaft without catching on rocks or timbers, and be thrown out.

Rule 5. The foreman will see that one printed sheet of these signals and rules for each level and one for the engine-room are attached to a board not less than twelve inches wide by thirty-six inches long, and securely fasten the board up where signals can be easily read at the places above stated.

Rule 6. The above signals and rules must be obeyed. Any violation will be sufficient grounds for discharging the party or parties so doing. No person, company, corporation, or individuals operating any mine within the state of California shall be responsible for accidents that may happen to men disobeying the above rules and signals. Said notice and rules shall be signed by the person or superintendent having charge of the mine, who shall designate the name of the corporation or the owner of the mine.

§ 3. Any person or company failing to carry out any of the provisions of this act shall be responsible for all damages arising to or incurred by any person working in said mine during the time of such failure.

§ 4. This act shall take effect immediately.

ACT 2226.

An act to provide for the appointment, duties, and compensation of a debris commissioner, and to make an appropriation to be expended under his directions in the discharge of his duties as such commissioner. [Approved March 24, 1893. Stats. 1893, p. 339.]

Amended 1897, p. 169; 1901, pp. 284, 564; 1905, p. 142. Section 6 repealed 1901, p. 564.

Repealed 1907, p. 224.

ACT 2227.

An act regulating the sale of mineral lands belonging to the state. [Stats. 1873-74, p. 766.]

Amended 1875-76, p. 20; 1880, p. 26. Repealed 1897, p. 438.

The repealing act contained the following sections:

§ 2. When it shall be shown by affidavits or otherwise, to the satisfaction of the surveyor general, that any portion of a sixteenth or thirty-sixth section belonging to the state is valuable for its mineral deposits, the surveyor general shall not approve any application to purchase the same, nor shall the register of the state land office issue a certificate of purchase therefor, until the question of the character of the land has been referred for determination to a court of competent jurisdiction, in the manner provided by section thirty-four hundred and fourteen of the Political Code, and adjudged not to be valuable as mining land.

§ 3. The sixteenth and thirty-sixth sections belonging to the state, in which there may be found valuable mineral deposits are hereby declared to be free and open to exploration, occupation, and purchase of the United States, under the laws, rules, and regulations passed and prescribed by the United States for the sale of mineral lands.

§ 4. This act shall take effect from and after its passage.

ACT 2228.

To regulate the rights of owners of mines. [Stats. 1869-70, p. 569.]

This act gave rights of way to miners and provided a means by which rights of way and places of deposit could be obtained. It has not been in terms repealed, but as county courts have been abolished, it is probably not in force.

ACT 2229.

An act entitled an act relating to the working, rights of way, easement, and drainage of mines in the state of California.

[Approved March 31, 1891. Stats. 1891, p. 219.]

Citations. Cal. 117/490.

§ 1. Whenever any mine owner, company, or corporation shall have performed the labor and made the improvements required by law for the location and ownership of mining claims or lodes, such owner, company,

or corporation shall file or cause to be filed, within thirty days after the time limited for performing such labor or making such improvements, with the county recorder of deeds of the county in which the mine or claim is situated, [an affidavit] particularly describing the labor performed and improvements made, and the value thereof, which affidavit shall be prima facie evidence of the facts therein stated. Upon the failure of any claimant or mine owner to comply with the conditions of this act in the performance of labor, or making of improvements upon any claim, mine, or mining ground, the claim or mine upon which such failure occurred shall be opened to relocation in the same manner as if no location of the same had ever been made. But if, previous to relocation, the original locators, their heirs, assigns, or legal representatives, resume work upon such claim, and continue the same with reasonable diligence until the required amount of labor has been performed or improvements made, and the required statement of accounts and affidavits filed with the county recorder, then the claim shall not be subject to relocation because of previous failure to file accounts. Upon the failure of any one of the several co-owners to contribute his portion of the expenditures, required hereby, the co-owners who have performed the labor or made the improvement may, at the expiration of the year, give such delinquent co-owner personal notice, in writing, or by publication in the newspaper published nearest the claim for at least once a week for ninety days; and if, at the expiration of ninety days after such notice in writing or publication, such delinquent shall fail or refuse to contribute his portion of the expenditures required by this section, his interest in the claim shall become the property of his co-owners who made the required expenditures. A copy of such notice, together with an affidavit showing personal service or publication, as the case may be, of such notice, when filed or recorded with the recorder of deeds of the county in which such mining claim is situated, shall be evidence of the acquisition of title of such co-owners. Where a person or company has or may run a tunnel or cuts for the purpose and in good faith for the purpose of developing a lode, lodes, or claims owned by said person or company or corporation, the money so expended in running said tunnel shall be taken and considered as expended on said lodes or claims; provided, further, that said lode, claim, or claims shall be distinctly marked on the surface as provided by law.

§2. All mining locations and mining claims shall be subject to a reservation of the right of way through or over any mining claims, ditches, roads, canals, cuts, tunnels, and other easements for the purpose of working other mines; provided, that any danger occasioned thereby shall be assessed and paid for in the manner provided by law for land taken for public use under the right of eminent domain.

§3. This act shall take effect immediately.

ACT 2230.

An act regulating the hours of employment in underground mines and in smelting and reduction works.

[Approved March 10, 1909. Stats. 1909, p. 279.]

§1. That the period of employment for all persons who are employed or engaged in work in underground mines in search of minerals, whether base or precious, or who are engaged in such underground mines for other purposes, or who are employed or engaged in other underground workings, whether for the purpose of tunneling, making excavations or to accomplish any other purpose or design, or who are employed in smelters and other institutions for the reduction or refining of ores or metals, shall not exceed eight hours within any twenty-four hours, and the hours of employment in such employment or work day shall be consecutive, excluding, however, any intermission of time for lunch or meals; provided that, in the case of emergency, where life or property is in imminent danger, the period may be a longer time during the continuance of the exigency or emergency.

§2. Any person who shall violate any provision of this act, and any person who as foreman, manager, director or officer of a corporation, or as the employer or superior officer of any person, shall command, persuade or allow any person to violate any provision of this act, shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than fifty dollars (\$50) nor more than three hundred dollars (\$300), or by imprisonment of not more than three months. And the court shall have discretion to impose both fine and imprisonment as herein provided.

§3. All acts and parts of acts inconsistent with this act are hereby repealed.

TITLE 318.**MINING CORPORATIONS.****ACT 2234.**

Supplemental to act for formation of corporations. [Stats. 1857, p. 121.]

This act related to corporations formed for the purpose of ditching, mining, or conveying water for mining.

ACT 2235.

In reference to corporations organized to mine outside of the state.
[Stats. 1861, p. 41.]

"Doubtless repealed by § 288, Civil Code, except as to pre-existing corporations."—Code Commissioners' Note.

ACT 2236.

To authorize corporations organized in this state for the purpose of mining in or without this state, to establish and maintain transfer agencies in other states. [Stats. 1863-64, p. 429.]

Superseded by Civil Code, §§ 586, 587

ACT 2237.

Authorizing mining corporations to change their place of business.
[Stats. 1863-64, p. 76.]

Superseded by § 321a, Civil Code, enacted 1875-76.

ACT 2238.

Authorizing mining companies of Aurora, Nevada, to remove their place of business to California. [Stats. 1863-64, p. 109.]

ACT 2239.

Mining corporations, protection of stockholders in. [Stats. 1873-74, p. 866.]

Amended 1880, p. 184; 1897, p. 38.

Codified by §§ 588-590, of Civil Code, 1905.

It provided that the books were open to inspection, for the posting of monthly accounts, and gave a right to inspect the grounds.

"Portion of amendatory act of 1897 is unconstitutional (*Johnston v. Tantphaus*, 127 Cal. 605). Remaining portion codified in Civil Code, §§ 588, 589, 590, as adopted in 1905."—Code Commissioners' Note.

ACT 2240.

Further protection of stockholders in mining corporations. [Stats. 1880, p. 131.]

Amended 1897, p. 96. Repealed 1905, p. 74.

This act related to the sale, lease, or mortgage of mines.

Citations. Cal. 72/305; 74/299; 78/638; 80/311, 812, 557, 558; 81/363; 106/551; 111/89, 91; 118/187; 127/284, 286, 287, 289, 684; 130/251; 185/377, 378, 379; 144/514, 520; 146/225. App. 8/283.

"Unconstitutional as to § 8 (*Krause v. Durbrow*, 127 Cal. 681). See *Lacy v. Gunn*, 144 Cal. 511."—Code Commissioner's Note.

ACT 2241.

Concerning corporations, supplementing act of April 22, 1850. [Stats. 1871-72, p. 443.]

Amended 1875-76, p. 730. Unconstitutional: *Oholler etc. Co. v. Wilson*, 66 Cal. 374.

This act provided for the removal of officers of mining corporations.

TITLE 319.**MISSING PERSONS.****ACT 2246.**

An act authorizing the appointment of trustees for the estates of missing persons, and defining the duties of such trustees. [Approved March 23, 1893. Stats. 1893, p. 218.]

Codified by §§ 1822-1822b of Code of Civil Procedure.

TITLE 320.**MOBS.****ACT 2251.**

To provide for the compensation of parties whose property may be destroyed by mobs or riots. [Stats. 1867-68, p. 418.]

Superseded by Political Code, §§ 4452-4457.

This act provided that cities or counties should be liable for injury through mobs or riots.

TITLE 321.**MODESTO.****ACT 2256.**

C. F. Leavenworth and his assigns, granting right to supply town of Modesto with water. [Stats. 1875-76, p. 41.]

TITLE 322.**MODOC COUNTY.****ACT 2261.**

Creating. [Stats. 1873-74, p. 124.]

Supplemented 1878-74, p. 517. Section 4 of last-named act repealed as to Adin township, 1877-78, p. 111.

ACT 2262.

Semi-annual payment of interest and principal on bonds issued to Siskiyou County. [Stats. 1875-76, p. 649.]

ACT 2263.

Lawful and partition fences in. [Stats. 1873-74, p. 362.]

Amended 1875-76, p. 71.

ACT 2264.

Fees and salaries of officers of. [Stats. 1877-78, p. 140.]

Amended 1877-78, p. 454. Repealed by County Government Act, 1897, p. 566, § 208, as to salaries; and as to fees by the fee bill of 1895, p. 267, as to the officers therein named.

ACT 2265.

Herding of sheep, restriction of. [Stats. 1877-78, p. 241.]

ACT 2266.

Treasurer of county, bond of. [Stats. 1875-76, p. 154.]

Repealed by County Government Act, 1897, p. 475, § 66.

TITLE 323.**MOKELUMNE HILL.****ACT 2271.**

Name changed to Lodi. [Stats. 1873-74, p. 690.]

ACT 2272.

Defining fire limits of, and providing for the support of the fire department thereof. [Stats. 1871-72, p. 625.]

TITLE 324.**MOKELUMNE RIVER.****ACT 2277.**

To declare the Mokelumne River navigable. [Stats. 1880, p. 22.]
Superseded by Political Code, § 2849.

TITLE 325.**MONEY.****ACT 2282.**

In relation to money of account in this state. [Stats. 1850, p. 459.]
Superseded by Political Code, §§ 3272-3274.

ACT 2283.

To regulate the coining of money by individuals. [Stats. 1851, p. 171.]
Superseded as to its penal provisions by § 6 of the Penal Code, and probably entirely superseded.

ACT 2284.

To prohibit any person or persons, association, company or corporation from exercising the privileges of banking or creating paper to circulate as money. [Stats. 1855, p. 128.]
Superseded by Penal Code, § 648.

TITLE 326.**MONO COUNTY.****ACT 2289.**

Assessor, fixing compensation of. [Stats. 1873-74, p. 708.]
Repealed by County Government Act, 1897, p. 570, § 213.

ACT 2290.

Official bonds in. [Stats. 1873-74, p. 180.]
Repealed by County Government Act, 1897, p. 475, § 66.

ACT 2291.

To provide for additional judge in. [Stats. 1880, p. 99.]
Repealed 1888, p. 62.

ACT 2292.

Public roads in, improvement of. [Stats. 1877-78, p. 438.]
Repealed 1883, p. 5, c. X, § 2, and by Political Code, §§ 2642, 2652.

ACT 2293.

Stallions running at large, act to prevent. [Stats. 1873-74, p. 228.]
Codified by § 597g of Penal Code. See note to § 597g, Penal Code.

ACT 2294.

Teachers in, employment of. [Stats. 1873-74, p. 509.]
Probably repealed in Political Code, § 1696, as amended 1893, p. 255.

TITLE 327.**MONTEREY CITY.****ACT 2298.**

An act to provide for the acquisition of the old mission at Sonoma, of Fort Ross property, of the landing-place at Monterey of Junipero Serra, and the old theater property of Monterey, and providing for the preservation, maintenance, protection and improvement of said properties. [Approved February 21, 1905. Stats. 1905, p. 17.]

ACT 2299.

To incorporate the city of Monterey. [Stats. 1853, p. 159.]
Amended 1857, p. 55; 1862, p. 274; 1865, p. 834. Repealed 1889, p. 227.
Citations. Cal. 139/545, 546, 547, 557, 558.

ACT 2300.

To grant to the city of Monterey the title to the water front of said city in the bay of Monterey. [Stats. 1867-68, p. 202.]
Amended 1903, p. 290.

TITLE 328.**MONTEREY COUNTY.****ACT 2306.**

Courthouse and jail, erection of. [Stats. 1877-78, p. 28.]
Amended 1877-78, p. 1034.

ACT 2307.

Transfer of money from one fund to another. [Stats. 1875-76, p. 595.]
Superseded by subd. 18, § 25, County Government Act, 1897, p. 468.
This act authorized the transfer of money from the swamp land fund to the general fund.

ACT 2308.

Concerning roads and highways in. [Stats. 1877-78, p. 998.]
Repealed 1883, p. 5, c. X, § 2, and by the County Government Acts.

ACT 2309.

Repealing the act of 1868 relating to roads in Monterey and making the provisions of the codes, respecting roads and highways applicable. [Stats. 1873-74, p. 307.]
Repealed Stats. 1883, p. 5, c. X, § 2

ACT 2310.

Authorizing the appointment of two additional notaries in Monterey County. [Stats. 1871-72, p. 792.]

Repealed by Political Code, § 791.

ACT 2311.

In relation to officers of, their fees and salaries. [Stats. 1877-78, p. 863.]

"Repealed, except as to county surveyor, by fee bill of 1895, p. 267, and the County Government Act, 1897, p. 526, § 175. The provisions relating to the salary of recorder never went into effect. See *Speegle v. Joy*, 60 Cal. 278."—Code Commissioners' Note.

ACT 2312.

To legalize and make valid copies of certain records of. [Stats. 1877-78, p. 736.]

ACT 2313.

Fees of sheriffs of. [Stats. 1871-72, p. 419.]

Repealed by County Government Act, 1897, p. 526, § 175.

ACT 2314.

Fixing salary of superintendent of common schools of. [Stats. 1871-72, p. 316.]

Repealed by County Government Act, 1897, p. 526, § 175.

ACT 2315.

Supervisory districts, reorganizing. [Stats. 1873-74, p. 203.]

Amended 1873-74, p. 432. Superseded by County Government Act, 1897, p. 452.

ACT 2316.

Supervisors, terms of. [Stats. 1875-76, p. 124.]

Amended 1877-78, p. 326. Repealed by County Government Act, 1897, p. 452.

TITLE 329.

MONTEREY CUSTOM-HOUSE.

ACT 2320.

To provide for the appointment of a board of Monterey custom-house trustees and for the acquisition of the control of the Monterey custom-house property, and providing for an appropriation for the preservation, protection, and improvement of said property. [Approved March 16, 1901. Stats. 1901, p. 516.]

TITLE 330.

MORO COJO SLOUGH.

ACT 2325.

Declared navigable. [Stats. 1873-74, p. 790.]

"Repealed by Political Code, § 2349, as amended 1891. Renewed by Political Code, § 2349, as amended in 1907."—Code Commissioners' Note.

**TITLE 331.
MORTGAGES.**

ACT 2330.

To abolish attorney's fees and other charges in foreclosure. [Stats. 1873-74, p. 707.]

This act can be found in the Appendix to the Code of Civil Procedure, p. 864. It provided that the court should fix the attorney's fees, notwithstanding a stipulation in the mortgage for the amount of the fee.

**TITLE 332.
MOTORCYCLES.**

ACT 2331.

An act to regulate the operation of motor vehicles on public highways, and making an appropriation for the purpose of carrying out the objects of this act.

[Approved March 22, 1905. Stats. 1905, p. 816.]

Amended 1907, p. 914.

See Political Code, §§ 2787, 2789, 2802.

§ 1. Subdivision 1. The words and phrases used in this act shall, for the purposes of this act, unless the same be contrary to or inconsistent with the context, be construed as follows: (1) "motor vehicle" shall include all vehicles propelled by any power other than muscular power, provided that nothing herein contained shall, except the provisions of subdivisions 3, 4 and 5 of section 3 and subdivision 1 of section 4 of this act, apply to motorcycles, motor bicycles, traction engines or road rollers; (2) "public highways" shall include any highway, county road, state road, public street, avenue, alley, park, parkway, driveway or public place in any county, or incorporated city and county, city or town; (3) "closely built up" shall mean (a) the territory of any county or incorporated city and county, city or town contiguous to a public highway which is at that point built up with structures devoted to business, (b) the territory of any county or incorporated city and county, city or town contiguous to a public highway not devoted to business, where for not less than one quarter of a mile the dwelling-houses on such highway average less than one hundred feet apart, provided that the local authorities having charge of such highway shall have placed conspicuously thereon at both ends of such closely built up section signs of sufficient size to be easily readable by a person using the highway, bearing the words "Slow down to — miles," inserting in the blank space the number of miles to which the speed is to be reduced, and also an arrow pointing in the direction where the speed is to be reduced; (4) "local authorities" shall include all boards of supervisors, trustees or councils, committees and other public officials of counties, or incorporated cities and counties, cities or towns; (5) "chauffeur" shall mean any person operating a motor vehicle as mechanic, employee or for hire.

§ 2. Subdivision 1. Every owner of a motor vehicle shall, for every such vehicle owned by him, file in the office of the secretary of state

a statement of his name and address, with a brief description of the vehicle to be registered including the name of the maker, factory number, style of vehicle and motor power on a blank to be prepared and furnished by such secretary of state for that purpose. The filing fee shall be two dollars.

Subdivision 2. The secretary of state shall thereupon file such statement in his office, register such motor vehicle in a book or index kept for the purpose, and assign it a distinctive number.

Subdivision 3. The secretary of state shall forthwith on such registration, and without other fee, issue and deliver to the owner of such motor vehicle a seal of aluminum or other suitable metal, which shall be circular in form approximately two inches in diameter, and have stamped thereon the words "Registered motor vehicle, No. —, State of California," with the registration number inserted therein; which seal shall thereafter at all times be conspicuously displayed on the motor vehicle, to which such number has been assigned.

Subdivision 4. If the vehicle has been previously registered, the certificate issued thereon shall be returned to the secretary of state and in lieu thereof such secretary shall issue to said owner a registration seal containing the number of such previous registration upon payment of a fee of one dollar. Upon the sale of a motor vehicle, the vendor, except a manufacturer or dealer, shall within ten days, return to the secretary of state the registration seal affixed to such vehicle.

Subdivision 5. Every motor vehicle shall also at all times have the number assigned to it displayed on the back of such vehicle in such a manner as to be plainly visible, the numbers to be in arabic numerals, black on white background, each not less than three inches in height, and each stroke to be of a width not less than half an inch, and also as a part of such number of the abbreviated name of the state in black on white ground, such letters to be not less than one inch in height.

Subdivision 6. A manufacturer of or dealer in motor vehicles shall register one vehicle of each style or type manufactured or dealt in by him, and be entitled to as many duplicate registration seals for each type or style so manufactured or dealt in as he may desire on payment of an additional fee of fifty cents for each duplicate seal. If a registration seal and the corresponding number shall thereafter be affixed to and displayed on every vehicle of such type or style as in this section provided, while such vehicle is being operated on the public highways, it shall be deemed a sufficient compliance with subdivisions 1, 3, 5 and 8 of this section, until such vehicle shall be sold or let for hire. Nothing in this subdivision shall be construed to apply to a motor vehicle employed by a manufacturer or dealer for private use or for hire.

Subdivision 7. No motor vehicle shall be used or operated upon the public highways after this act takes effect which shall display thereon a registration seal or number belonging to any other vehicle, or a fictitious registration seal or number.

Subdivision 8. No motor vehicle shall be used, or operated on the public highways after this act takes effect, unless the owner shall have complied in all respects with this section, except that any person pur-

chasing a motor vehicle from the manufacturer, dealer or other person after this act goes into effect shall be allowed to operate such motor vehicle upon the public highways for a period of five days after the purchase and delivery thereof, provided that during such period such motor vehicle shall bear the registration number and seal of the previous owner under which it was operated or might have been operated by him.

Subdivision 9. The provisions of this section shall not apply to motor vehicles owned by non-residents of this state and only temporarily within this state, provided the owners thereof have complied with any law requiring the registration of owners of motor vehicles in force in the state, territory or federal district of their residence, and the registration number showing the initial of such state, territory or federal district shall be displayed on such vehicle substantially as in this section provided. [Amendment approved March 23, 1907. Stats. 1907, p. 914. In effect immediately.]

§ 3. Subdivision 1. No person shall operate a motor vehicle on a public highway at a rate of speed greater than is reasonable and proper, having regard to the traffic and use of the highway, or so as to endanger the life or limb of any person, or the safety of any property; or in any event on any public highway where the territory contiguous thereto is closely built up, at a greater rate than one mile in six minutes, or elsewhere in any incorporated city and county, city or town at a greater rate than one mile in four minutes, or elsewhere outside of any incorporated city and county, city or town, at a greater rate than one mile in three minutes; subject, however, to the other provisions of this act.

Subdivision 2. Upon approaching a bridge, dam, sharp curve, or steep descent, and also in traversing such bridge, dam, curve or descent, a person operating a motor vehicle shall have it under control and operate it at a rate of speed not exceeding one mile in fifteen minutes, and upon approaching a crossing of intersecting highways at a speed not greater than is reasonable and proper, having regard to the traffic then on such highway and the safety of the public.

Subdivision 3. Upon approaching a person walking in the roadway of a public highway, or a horse or horses, or other livestock, being ridden, led or driven thereon, a person operating a motor vehicle shall give reasonable warning of its approach, and use every reasonable precaution to insure the safety of such person or animal, and, in the case of horses or other livestock, to prevent frightening the same.

Subdivision 4. A person operating a motor vehicle shall, at request or on signal by putting up the hand, from a person riding, leading or driving a restive horse or horses, or other livestock, bring such motor vehicle immediately to a stop, and, if traveling in the opposite direction, remain stationary so long as may be reasonable to allow such horse or animal to pass, and, if traveling in the same direction, use reasonable caution in thereafter passing such horse or animal; provided, that in case such horse or animal appears badly frightened or the person operating such motor vehicle is requested to do so, such person shall cause the motor of such vehicle to cease running so long as shall be reasonably necessary to prevent accident and insure safety to others.

Subdivision 5. In case of accident or injury to a person or property on the public highways, due to the operation thereon of a motor vehicle, the person operating such vehicle shall stop, and, upon request of a person injured, or any person present, give such person his name and address, and, if not the owner, the name and address of such owner.

Subdivision 6. Local authorities may, notwithstanding the other provisions of this section, set aside for a given time a specified public highway for speed tests or races, to be conducted under proper restrictions for the safety of the public. [Amendment approved March 23, 1907. Stats. 1907, p. 915. In effect immediately.]

§ 4. Subdivision 1. Whenever a person operating a motor vehicle shall meet on a public highway any other person riding or driving a horse or horses or other livestock, or any other vehicles, the person so operating such motor vehicle shall reasonably turn the same to the right of the center of such highway so as to pass without interference. Any such person so operating a motor vehicle, shall, on overtaking any such horse, livestock or other vehicle, pass on the left side thereof, and the rider or driver of such horse, livestock or other vehicle shall, as soon as practicable, turn to the right so as to allow free passage on the left. Any such person so operating a motor vehicle shall at the intersection of public highways, keep to the right of the intersection of the centers of such highways when turning to the right and pass to the right of such intersection when turning to the left. Nothing in this subdivision shall, however, be construed as limiting the meaning or effect of the provisions of section three of this act.

Subdivision 2. Every motor vehicle, while in use on a public highway shall be provided with good and efficient brakes, and also with suitable bell, horn or other signal, and be so constructed as to exhibit, during the period from one hour after sunset to one hour before sunrise, two lamps showing white lights visible within a reasonable distance in the direction towards which such vehicle is proceeding, showing the registered number of the vehicle in separate arabic numerals, not less than one inch in height and each stroke to be not less than one quarter of an inch in width, and also a red light visible in the reverse direction.

Subdivision 3. Subject to the provisions of this act, local authorities shall have no power to pass, enforce or maintain any ordinance, rule or regulation requiring of any owner or operator of a motor vehicle any license or permit to use the public highways, or excluding or prohibiting any motor vehicle whose owner has complied with section 2 of this act from the free use of such highways, except such driveway, speedway or road as has been or may be expressly set apart by law for the exclusive use of horses and light carriages, or except as herein provided, in any way affecting the registration or numbering of motor vehicles or prescribing a slower rate of speed than herein specified at which such vehicles may be operated, or the use of the public highways, contrary or inconsistent with the provisions of this act; and all such ordinances, rules or regulations now in force are hereby declared to be of no validity or effect; provided, however, that the local authorities of incorporated cities and

TITLE 333.
MUNICIPAL CORPORATIONS.

ACT 2332.

An act to validate the organization and incorporation of municipal corporations.

[Approved March 20, 1905. Stats. 1905, p. 400.]

§1. All municipal corporations, the organization and incorporation of which have been authenticated by an order of a board of supervisors in this state, declaring the same incorporated as municipal corporations of the classes to which such corporations may respectively belong, and a certified copy of which order has been filed by such board of supervisors in the office of the secretary of state, showing such copy of said order to have been filed in said office, and which corporations thereafter have acted in the form and manner of municipal corporations under the provisions of "An act to provide for the organization, incorporation, and government of municipal corporations," approved March thirteenth, eighteen hundred and eighty-three, and the amendments thereto, are hereby declared to be and to have been municipal corporations from the date of filing the certified copy of said order of the board of supervisors with the secretary of state; and all the acts of the said municipal corporations heretofore performed according to the act aforesaid, are hereby validated, and declared as legal.

See Acts 2354, 2355, post.

ACT 2333.

An act to provide for the lighting of public streets, lanes, alleys, courts and places in municipalities, and for the assessment of the costs and expenses thereof upon the property benefited thereby.

[Approved March 21, 1905. Stats. 1905, p. 564.]

§1. Whenever the public interest or convenience may require, the city council of any municipality in the state shall have full power and authority to order poles, posts, wires, pipes, conduits and lamps, or any of said appliances, or any other suitable or necessary appliances, to be installed in and along the whole or any part of any public street, lane, alley, court or place in such municipality, for the purpose of lighting the same; also to order appliances in and along the same, installed under this act, or otherwise installed and owned or controlled by such municipality, to be maintained; and also to order gas, electric current, or other illuminating agent, to be furnished for such lighting: in the manner and under the proceedings hereinafter described.

§2. Before ordering any improvement to be made, which is authorized by section 1 of this act, the city council shall adopt a resolution declaring its intention to do so, briefly describing the proposed improvement, which may include the whole or any part of one or more streets, lanes, alleys, courts or places, and specifying the exterior boundaries of the district to be benefited by said improvement and to be assessed to

pay the cost and expenses thereof, and to be known as the assessment district. Said proposed improvement may include any or all of the different kinds of work mentioned in section 1 of this act; provided, however, that the maintenance of appliances or the furnishing of gas, electric current or other illuminating agent, shall be for a period stated in the resolution of intention, but not exceeding two years. The city council shall also, in the same resolution, refer the proposed improvement to the city engineer, if there be one, and if not, to some competent person employed by the municipality for the purpose and named in said resolution, and direct him to make and file with the clerk of the city council a report in writing presenting the following:

1. Plans and specifications for the work required in order to make said improvements;

2. An estimate of the cost of said improvement and of the incidental expenses in connection therewith;

3. A diagram showing the district above referred to, and also the boundaries and dimensions of the respective subdivisions of the land within said district, each of which subdivisions shall be given a separate number in red ink upon said diagram.

4. A proposed assessment of the total amount of the costs and expenses of the proposed improvement upon the several subdivisions of land in said district in proportion to the estimated benefits to be received by such subdivisions, respectively, from said improvement. Said assessment shall refer to such subdivisions upon said diagram by the respective red ink numbers thereof, and shall show the names of the owners, if known, otherwise designating them as unknown. No mistake in the name of the owner of any parcel of land shall affect the validity of the assessment thereon.

In any municipality having a board of public works created by its charter, or by law, the proposed improvement shall be referred to said board, and the report provided for herein shall be made by said board.

§ 3. Upon the filing of the report provided for in section 2 of this act, the said clerk shall present the same to the city council for consideration, and said council may modify the same in any respect, and, in case of any such modification, the report as modified shall stand as the report for the purpose of all subsequent proceedings. Thereafter the council, by resolution, shall appoint a time and place for hearing protests in relation to the proposed improvement, which time shall not be less than twenty days from the date of the passage of said resolution, and shall direct the clerk of the city council to give notice of said hearing, and shall designate the newspaper in which such notice shall be published.

§ 4. After the passage of the resolution mentioned in section 3 of this act, the clerk of said city council shall cause to be conspicuously posted along all streets and parts of streets within the assessment district described in the resolution of intention, at not more than three hundred feet in distance apart, notices (not less than three in all), of

the passage of said resolution of intention and of the filing of said report. Said notices shall be headed "Notice of Local Improvement," in letters not less than one inch in length, shall be in legible characters, and shall state the fact and date of the passage of said resolution of intention and of the filing of said report, and the date set for the hearing of said protests, and briefly describe the improvement proposed, and refer to said resolution and report further particulars. He shall also cause a notice similar in substance to be published for a period of two days in a daily newspaper, published and circulated in said municipality, and designated by said city council for that purpose, or if there is no daily newspaper in said municipality, then by two successive insertions in a weekly paper, so published, circulated and designated. Said notices must be posted and published, as above provided, at least ten days before the date set for the hearing of said protests.

§ 5. Any person interested, objecting to said improvement, or to the extent of the assessment district, or to the proposed assessment provided for in section 2 of this act, may file a written protest with the clerk of the city council at or before the time set for the hearing referred to in section 3 hereof. The clerk shall indorse on every such protest the date of its reception by him, and at the time appointed for the hearing above provided for, shall present to said city council all protests so filed with him. If such protests are against said improvement and said city council finds that the same are signed by the owners of a majority of the frontage of the property fronting on streets or parts of streets within said assessment district, all further proceedings under said resolution of intention shall be barred and no new resolution of intention for the same improvement shall be passed within six months after the presentation of such protests to the city council, unless the owners of a majority of the frontage of the property fronting on streets or parts of streets within said assessment district shall in the meantime petition therefor. If such protests are against the improvement and the council finds that they are not signed by the owners of a majority of the frontage of the property fronting on streets or parts of streets within the assessment district, or if such protests are against the extent of the assessment district, the council shall hear said protests at the time appointed therefor, as above provided, or at any time to which the hearing thereof may be adjourned, and pass upon the same, and its decision shall be final and conclusive, and if such protests are sustained the proceedings shall be abandoned, but may be renewed at any time, and if such protests are denied, the proposed assessment shall be confirmed. If such protests are against the proposed assessment, the council shall hear said protests at the time appointed therefor as above provided, or at any time to which the hearing thereof may be adjourned, and may confirm, modify or correct said proposed assessment.

When, upon the hearing, said proposed assessment is confirmed, modified or corrected, or in case no protests are filed, the report provided for in section 2 hereof shall be adopted as a whole, with any modifications or corrections that have been made therein, and the city council shall

by resolution, order said proposed improvement to be made, and declare its action upon said report and assessment, which resolution shall be final and conclusive on all persons, and the assessment shall be thereby levied upon the respective subdivisions of land in the assessment district.

§ 6. The validity of an assessment levied under this act shall not be contested in any action or proceeding unless the same is commenced within thirty days after the time said assessment is levied, and any appeal from a final judgment in such an action or proceeding must be perfected within thirty days after the entry of such judgment.

§ 7. Upon the passage of the resolution provided for in section 5 hereof, the clerk of said city council shall transmit to the tax collector of the municipality, the diagram and assessment provided for in subdivisions 3 and 4 of section 2 hereof, and any modifications or corrections thereof made by said city council.

§ 8. Upon the receipt of the diagram and assessment referred to in the last preceding section, the tax collector of the municipality shall record the same in a substantial book, to be kept for that purpose, in his office, and shall thereupon fix a day not less than twenty, nor more than thirty, days from the date of the receipt by him of said diagram and assessment after which all assessments unpaid shall become delinquent and ten per cent shall be added to the amount thereof, and shall also fix a day for the sale of the various parcels of land within said district upon which the assessments are unpaid, which said date shall be not less than fifty days nor more than sixty days from the date of the receipt by him of said diagram and assessment.

§ 9. Notice of the sale of property upon which the said assessments are delinquent shall be given by said tax collector by posting and publication in the manner now provided by the general laws of the state of California, for giving notice of the sale of real estate upon execution, provided, however, that the descriptions of the various parcels of land need not be set out at length, but only by the respective numbers of the same as they appear upon the assessment and diagram, which shall be properly referred to in said notice, and said descriptions shall all be contained in one notice. At the time and place fixed for the sale of said property, the tax collector shall separately sell the respective parcels of land within said district, the assessments against which have not been paid, or so much of each parcel as shall be necessary to realize the amount assessed against said parcel, said ten per cent penalty for delinquency, and its proportion of the expenses of sale, in the order of their numbers upon said diagram. At said sale the municipality may be a purchaser.

§ 10. The tax collector shall issue for each sale an original and a duplicate certificate of sale, referring to the proceedings, describing the parcel sold, and giving the name of the purchaser and the amount for which said parcel was sold. The original certificate he shall deliver to

the purchaser, and the duplicate he shall keep on file in his office in the form of a stub in the certificate-book.

§ 11. At any time before the expiration of one year from the date of the sale, any property sold under the provisions of the preceding sections may be redeemed by the payment to the tax collector of the amount for which the property was sold, with an additional penalty of twenty-five per cent of said amount. Said redemption money shall be paid by the tax collector to the person holding the original certificate of sale upon his delivering up the same and receipting for the amount received from the tax collector therefor. Upon redemption of any parcel of land the tax collector shall enter the fact and date of such redemption upon the duplicate certificate of sale thereof.

§ 12. If the property is sold, and is not redeemed within said period of one year from the date of the sale, the tax collector shall execute to the person named in the original certificate, or to his assignee, a deed of the property described in said certificate, which said deed shall refer in general terms to the proceedings under which the same is issued, and shall contain a description of the property. Such deed shall convey title in fee to said property, and the grantee is immediately, upon the receipt thereof, entitled to possession of the property described therein.

§ 13. The funds collected by the tax collector under the proceedings herein provided for, either upon voluntary payment, or as the result of sales, shall be paid by said tax collector, as fast as collected, to the treasurer of said municipality, who shall place the same in a special fund designated by the number or name of the proceeding, and payments shall be made out of said special fund only for the purposes provided for in this act. To expedite the making of any such improvement, the city council may at any time transfer into said special fund, out of any money in the general fund, such sums as it may deem necessary, and the sums so transferred shall be deemed a loan to such special fund and shall be repaid out of the proceeds of the assessments provided for in this act.

§ 14. At any time after the funds for the work, or any part of the work, shall be in the hands of said treasurer, the city council may let the contract or contracts for such work or the respective parts thereof. Every such contract shall be let to the lowest responsible bidder, after notice published by two insertions in some newspaper published in such municipality and designated by the city council for that purpose, or if there be no such newspaper, then by such posting as the city council may provide.

Every bid shall be accompanied by a certified check, amounting to ten per cent of the bid, payable to the order of the clerk of said city council, and the same shall be forfeited to the municipality in case the bidder depositing the same does not, within ten days after written notice that the contract has been awarded to him, enter into a contract with the municipality for the work, the faithful performance of which shall be

secured by an undertaking in such penal sum as the city council shall require, with sureties satisfactory to said council.

The contract must provide that the work shall be done and the work must be done, strictly in accordance with the plans and specifications contained in the report provided for in sections 2 and 3 of this act. The work must be done under the supervision of the board, officer or person by whom the report provided for in section 2 of this act was made and no work shall be paid for until it has been accepted by said board, officer or person and by said city council.

If the contractor abandons the work or fails to proceed with the same as rapidly as required by his contract the said city council may relet the work in the same manner as in the case of the first letting thereof and retain the cost of the same and also any expense incidental to the reletting, out of any funds due or to become due to the contractor, and also hold him and his sureties responsible for such cost and expense, and for any damages resulting from such abandonment or failure upon his bond.

§ 15. In case the first assessment for any improvement provided for in this act proves insufficient, a supplemental assessment may be made to raise the deficit, in the same manner as nearly as may be, as the first assessment, except that protests may only be made to such supplemental assessment, and so on until sufficient money shall have been realized, to pay for such improvement.

§ 16. If at any time an assessment for any such improvement shall realize a larger sum than is necessary therefor, the excess shall be refunded pro rata to the parties by whom it was paid.

§ 17. Every special assessment levied under this act shall, from the date of the levy thereof, be a lien upon the land upon which it is levied paramount to all other liens, except prior assessments and taxation, and such lien shall continue until such special assessment is paid, or until the property is sold and a deed is made therefor to the purchaser as hereinbefore provided, and all parties shall have constructive notice of such lien from the date of the passage of the resolution referred to in section 5 thereof.

§ 18. The following words and phrases shall, where used in this act, have the following meanings:

(1) The term "improvement" includes all work and improvements mentioned in section 1 of this act.

(2) The terms "municipality" and "city" include every incorporated city, city and county, or other corporation organized for municipal purposes.

(3) The terms "city council" and "council" include any body or board in which by law is vested the legislative power of any city.

(4) The terms "treasurer" and "city treasurer" include any person or officer who has charge and makes payments of the city funds.

(5) The term "city engineer" includes any person or officer who has charge of the surveying and engineering work of said city.

§ 19. This act shall take effect and be in force from and after its passage.

ACT 2334.

An act to authorize the construction, maintenance and operation of private spur tracks in municipalities.

[Approved March 21, 1905. Stats. 1905, p. 710.]

§ 1. The council or other legislative governing body of any city or town, or city and county, by a majority vote, may grant the right to property owners or to the proprietors of manufacturing or industrial enterprises to construct, maintain and operate spur tracks from their premises to a connection with any railroad. Such grant shall, nevertheless, be revocable at the pleasure of the granting authority.

ACT 2335.

To authorize and direct the municipal authorities of the several cities and incorporated towns of this state to execute certain trusts in relation to the town lands granted to the incorporated cities and towns in this state, by the act of Congress entitled "An act for the relief of the inhabitants of cities and towns upon the public lands," approved March second, eighteen hundred and sixty-seven. [Approved March 24, 1868. Stats. 1867-68, p. 487.]

Amended 1871-72, p. 237. Continued in force by Political Code, § 4442. See, also, Stats. 1867-68, p. 692.

Citations. Cal. 78/60.

ACT 2336.

To authorize and direct the county judges of the several counties of this state to execute certain trusts in relation to the town lands granted to the unincorporated towns in this state by the act of Congress entitled "An act for the relief of the inhabitants of cities and towns upon the public lands," approved March 2, 1867. [Stats. 1867-68, p. 692.]

Amended 1878-74, p. 87; 1885, p. 115; 1897, p. 98; 1907, p. 286.

Citations. Cal. 62/609; 110/194, 197; 133/52.

ACT 2337.

Authorizing incorporated cities to acquire by purchase, gift, or condemnation, water, water rights, reservoir sites, etc. [Stats. 1891, p. 102.]

Citations. Cal. 124/616; 152/589.

ACT 2338.

To provide for the receipt and appropriation of donations to the state, or counties, or cities and counties, or cities or towns therein. [Approved April 3, 1880. Stats. 1880, p. 20 (Ban. ed. 106).]

Modified by § 453a of Political Code. See, also, § 4052a of Political Code: See ante, Act 802.

ACT 2339.

To provide for the organization, incorporation and government of merged and consolidated cities and counties of more than one hundred thousand inhabitants. [Stats. 1880, p. 137.]

Unconstitutional: *Desmond v. Dunn*, 55 Cal. 242.

This act was what was known as the McClure Charter.

ACT 2340.

To provide for the letting of contracts for lighting streets and public buildings in cities and towns in the state. [Stats. 1895, p. 191.]

Amended 1897, p. 210. Repealed 1903, p. 32.

Citations. Cal. 119/81, 32.

ACT 2341.

Providing for the planting and care of shade trees in municipalities. [Stats. 1893, p. 153.]

ACT 2342.

Conferring power upon the governing body of municipal corporations of the first class to provide for the erection of a municipal hospital. [Stats. 1897, p. 9.]

ACT 2343.

Providing for the establishment and maintenance of sewer districts adjacent to municipal corporations. [Stats. 1899, p. 81.]

ACT 2344.

Providing for the levy of a special tax for specific public improvements within municipalities. [Stats. 1901, p. 296.]

See this act, post, Act 4042.

ACT 2345.

To authorize the licensing of bicycles, tricycles and similar vehicles. [Stats. 1901, p. 324.]

See this act, ante, Act 1942. See Stats. 1905, p. 816.

ACT 2346.

To provide for the disposal of moneys raised by cities or towns for public improvement after the same has been completed and paid for. [Stats. 1899, p. 105.]

ACT 2347.

An act to provide for the classification of municipal corporations. [Approved March 2, 1883. Stats. 1883, p. 24.]

Amended 1897, pp. 218, 421; 1899, p. 141; 1901, p. 94.

Citations. Cal. 73/311; 76/451; 85/347, 349; 111/104, 105; 117/574, 575; 118/408; 120/389, 390, 392, 394; 127/159; 143/566, 567, 569, 571; 151/467. App. 3/720; 6/738, 739.

Classes described.

§ 1. All municipal corporations within the state are hereby classified as follows: Those having a population of more than two hundred thousand shall constitute the first class; those having a population of more than one hundred thousand and not exceeding two hundred thousand shall constitute the first and one-half class; those having a population of more than thirty thousand and not exceeding one hundred thousand shall constitute the second class; those having a population of more than fifteen thousand and not exceeding thirty thousand shall constitute the third class; those having a population of more than ten thousand and not exceeding fifteen thousand shall constitute the fourth class; those having a population of more than three thousand and not exceeding ten thousand shall constitute the fifth class; those having a population of not exceeding three thousand shall constitute the sixth class. [Amendment became a law under constitutional provision without governor's approval March 5, 1901. Stats. 1901, p. 94. In effect immediately.]

Determination based on census.

§ 2. The census taken under the direction of the Congress of the United States in the year eighteen hundred and eighty, and every ten years thereafter, shall be the basis upon which the respective populations of said municipal corporations shall be determined, unless a direct enumeration of the inhabitants thereof be made, as in this act provided, in which case such direct enumeration shall constitute such basis.

Question of reorganization.

§ 3. The council, board of trustees, or other legislative body of any municipal corporation, may at any time cause an enumeration of the inhabitants thereof to be made, and in such manner and under such regulations as such body may, by ordinance, direct. If upon such enumeration it shall appear that such municipal corporation contains a sufficient number of inhabitants to entitle it to reorganize under a higher or lower class, the common council, trustees, or other legislative body, shall, upon receiving a petition therefor, signed by not less than one-fifth of the qualified electors thereof, submit to the electors of such city or town, at the next general election to be held therein, the question whether such city or town shall reorganize under the laws relating to municipal corporations of the class to which such city or town may belong. And thereupon such proceedings shall be had and election held, as provided in the general law for the reorganization, incorporation, and government of municipal corporations. If a majority of the votes cast at such election shall be in favor of such reorganization, thereafter such officers shall be elected as are, or may be, and at the time prescribed by law for municipal corporations of the class having the population under which such reorganization is had, and from and after the qualification of such officers, such corporation shall belong to such class. Whenever the result of such enumeration shall have been declared by the council, board of trustees, or other governing body, and entered in the minutes of such body, thereupon the number of such inhabitants so ascertained shall be deemed the number of the inhabitants of such city

for all the purposes of this act, and for the purposes of legislation affecting municipalities. The clerk of the council, board of trustees, or other governing body of such city shall cause a certified copy of such minute order to be filed with the board of supervisors of the county wherein such city is situated. [Amendment approved March 20, 1899. Stats. 1899, p. 141.]

MUNICIPAL CORPORATION BILL.

ACT 2348.

An act to provide for the organization, incorporation, and government of municipal corporations. [Stats. 1883, p. 93.]

Amended 1885, pp. 127, 134; 1887, p. 12; 1889, pp. 871, 889; 1891, pp. 21, 28, 54, 55, 114, 233; 1893, p. 299; 1895, pp. 24, 159, 266; 1897, pp. 89, 175, 183, 196, 403; 1899, p. 98; 1901, pp. 12, 18, 70, 269, 293, 656; 1903, pp. 40, 93, 135, 336; 1905, pp. 16, 45, 72, 78, 88, 89, 408; 1907, p. 272; 1909, pp. 148, 420, 937.

Citations. Cal. 66/656; 68/143; 69/151; 70/464; 71/208; 72/167, 169; 73/85, 86, 312, 313, 622; 74/23, 26; 76/95, 451; 79/854, 858; 85/51, 845, 846, 849, 595, 596; 87/231, 502, 504, 521, 522; 88/412, 431, 432; 89/523; 91/247; 92/618; 97/880; 98/429; 100/573, 575; 102/304; 103/665; 104/275, 518, 521; 106/501, 502; 107/97, 890, 400; 108/868; 109/319; 112/163, 331; 118/120, 403, 487; 120/393; 123/810, 460, 601; 124/97; 125/626; 126/229, 230, 281; 127/16; 129/603, 605, 606, 607; 131/502; 132/238; 135/452, 454, 502, 582; 137/584; 141/873, 873, 874, 375, 376, 377, 378, 379, 880, 897; 142/514, 515, 700; 143/566, 567, 569, 570, 571, 572, 573; 144/13, 14; 145/631, 633, 636, 640; 147/776, 778; 149/78; 151/177, 181, 477, 651; 153/41, 42, 43, 307, 709; 154/225, 226, 304. App. 1/631; 2/430, 431, 722, 761, 768; 3/488, 719, 721; 5/598; 6/733, 739; 7/385; 8/436, 437, 438, 439, 443, 498, 500.

AMDT. 1885.

Citations. Cal. 69/610.

AMDT. 1889.

Citations. Cal. 91/256; 95/112; 99/147; 104/519, 528; 107/98, 465, 469; 113/304; 119/625, 626; 121/103; 122/78; 126/280; 132/83; 136/146; 138/243, 244.

AMDT. 1891.

Citations. Cal. 118/121; 129/600; 153/207.

AMDT. 1893.

Citations. App. 1/63.

AMDT. 1897.

Citations. Cal. 136/143.

AMDT. 1901.

Citations. Cal. 153/207.

AMDT. 1903.

Citations. Cal. 150/189; 151/430.

AMDT. 1905.

Citations. Cal. 152/702, 703, 704.

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CHAPTER I.

Organization of Municipal Corporations.

City or town may incorporate.

§ 1. Any portion of a county containing not less than five hundred inhabitants, and not incorporated as a municipal corporation, may become incorporated under the provisions of this act, and when so incorporated, shall have the powers conferred, or that may be hereafter conferred, by law, upon municipal corporations of the class to which the same may belong.

Manner of proceeding in organizing a municipal corporation.

§ 2. A petition shall first be presented to the board of supervisors of such county, signed by at least fifty of the qualified electors of the county, residents within the limits of such proposed corporation, and the affidavit of three qualified electors residing within the proposed limits, filed with the petition, shall be prima facie evidence of the requisite number of signers. The petition shall set forth and particularly describe the proposed boundaries of such corporation, and state the number of inhabitants therein, as nearly as may be, and shall pray that the same may be incorporated under the provisions of this act. Such petition shall be presented at a regular meeting of such board, and shall be published for at least two weeks before the time at which the same is to be presented, in some newspaper printed and published in such county, together with a notice stating the time of the meeting at which the same will be presented. When such petition is presented, the board of supervisors shall hear the same, and may adjourn such hearing from time to time, not exceeding two months in all, and on the final hearing, shall make such changes in the proposed boundaries as they may find to be proper and shall establish and define such boundaries, and shall ascertain and determine how many inhabitants reside within such boundaries; provided, that any changes made by said board of supervisors shall not include any territory outside of the boundaries described in such petition. The boundaries so established by the board of supervisors shall be the boundaries of such municipal corporation until by action, authorized by law for the annexation of additional territory to, or the taking of territory from, said municipal corporation, such boundaries shall be changed; provided, whenever it shall appear to the board of supervisors that the boundaries of any municipal corporation have been incorrectly described, the board shall direct the county surveyor to ascertain and report a description of the boundaries. The

board of supervisors shall, at their first regular meeting after the filing of the report of the county surveyor, cause notice to be published in some newspaper published in the county, that the report will be acted upon at the next regular meeting of the board, and at said meeting the board shall ratify the report of the county surveyor, with such modifications as they shall deem necessary, and the boundaries so established shall be the legal boundaries of said municipal corporation. They shall then give notice of an election to be held in such proposed corporation for the purpose of determining whether the same shall become incorporated. Such notice shall particularly describe the boundaries so established, and shall state the name of such proposed corporation, and the number of inhabitants so ascertained to reside therein, and the same shall be published for at least two weeks prior to such election, in a newspaper printed and published within such boundaries, or posted for the same period in at least four public places therein. Such notice shall require the voters to cast ballots, which shall contain the words "For incorporation," or "Against incorporation," or words equivalent thereto, and also the names of persons voted for to fill the various elective municipal offices prescribed by law for municipal corporations of the class to which such proposed corporation will belong. [Amendment approved March 19, 1889. Stats. 1889, p. 371. In effect immediately.]

Election, how conducted.

§ 3. Such elections shall be conducted in accordance with the general election laws of the state, and no person shall be entitled to vote thereat unless he shall be a qualified elector of the county, enrolled upon the great register thereof, and shall have resided within the limits of such proposed corporation for at least sixty days next preceding such election. The board of supervisors shall meet on the Monday next succeeding such election, and proceed to canvass the votes cast thereat; and if, upon such canvass, it appears that the majority of the votes cast are for the incorporation, the board shall, by an order entered upon their minutes, declare such territory duly incorporated as a municipal incorporation of the class to which the same shall belong, under the name and style of the city (or town, as the case may be) of — (naming it), and shall declare the person[s] receiving, respectively, the highest number of votes for such several offices to be duly elected to such offices. Said board shall cause a copy of such order, duly certified, to be filed in the office of secretary of state, and from and after the date of such filing, such incorporation shall be deemed complete, and such officers shall be entitled to enter immediately upon the duties of their respective offices, upon qualifying in accordance with law, and shall hold such offices respectively only until the next general municipal election to be held in such city or town, and until their successors are elected and qualified; and it shall not be necessary in any action, civil or criminal, to plead and prove the organization or existence of such corporation, and the courts shall take judicial cognizance thereof without proof. [Amendment approved March 19, 1889. Stats. 1889, p. 372. In effect immediately.]

How incorporated city or town may incorporate under this law.

§ 4. The common council, board of trustees, or other legislative body of any city or county, city, or town, organized or incorporated prior to the first day of January, eighteen hundred and eighty, at twelve o'clock, meridian, shall, upon receiving a petition therefor, signed by not less than one-fifth of the qualified electors of such city and county, city or town, as shown by the vote cast at the last municipal election held therein, submit to the electors of such city and county, city, or town, at the next general election to be held therein, the question whether such city and county, city, or town shall become organized under the general laws of the state relating to municipal corporations of the class to which such city and county, city, or town may belong. Notice that such question will be so submitted shall be given by publication in a newspaper printed and published in such city and county, city, or town; or if there be no newspaper printed and published therein, by printing and posting the same in at least four public places therein, including the place or places where such election is to be held. Such notice shall be so published or posted for at least four weeks prior to such election, and shall also be made a part of the general election notice. Such notice shall distinctly state the proposition to be so submitted, and shall designate the class to which such corporation belongs, and shall invite the electors thereof to vote upon such proposition by placing upon their ballots the words "For reorganization," or "Against reorganization," or words equivalent thereto. The votes so cast shall be canvassed at the time and in the manner in which the other votes cast at such election are canvassed. If, upon such canvass, a majority of all the electors voting at such election shall be found to have voted for such reorganization, the said council, board, or other legislative body shall, by an order entered upon their minutes, cause their clerk, or other officer performing the duties of clerk, to make and transmit to the secretary of state a certified abstract of such vote; which abstract shall show the whole number of electors voting at such election, the number of votes cast for reorganization, and the number of votes cast against reorganization. Said council, board, or other legislative body shall immediately thereafter call a special election for the election of the officers required by law to be elected in corporations of the class to which such city and county, city, or town shall belong, which election shall be held within six weeks thereafter. Such election shall be held in all respects in the manner prescribed, or that may hereafter be prescribed by law for municipal elections in corporations of such class, and shall be canvassed by the council, board, or other legislative body calling the same, who shall immediately declare the result thereof, and cause the same to be entered upon their journal. From and after the date of such entry, such corporation shall be deemed to be organized under such general laws, under the name and style of the city and county (or city or town as the case may be) of — (naming it), with the powers conferred, or that may hereafter be conferred, by law upon municipal corporations of the class to which the same may belong; and

the officers elected at such election shall be entitled immediately to enter upon the duties of their respective offices, upon qualifying in accordance with law, and shall hold such offices, respectively, only until the next general municipal election to be held in such city and county, city, or town, and until their successors are elected and qualified.

Effect of reincorporation.

§ 5. Any city and county, city, or town organized under the provisions of section 4 of this act shall, for all purposes, be deemed and taken to be in law the identical corporation theretofore incorporated and existing; and such reorganization shall in no wise affect or impair the title to any property owned or held by such corporation, or in trust therefor, or any debts, demands, liabilities, or obligations existing in favor of or against such corporation, or any proceeding then pending; nor shall the same operate to repeal or affect in any manner any ordinance theretofore passed or adopted and remaining unrepealed, or, to discharge any person from any liability, civil or criminal, then existing, for any violation of any such ordinance; but such ordinances, so far as the same are not in conflict with such general laws, shall be and remain in force until repealed or amended by competent authority; provided, that proceedings theretofore commenced shall, after such reorganization, be conducted in accordance with the provisions of such general laws.

Duty of outgoing officers.

§ 6. As soon as the officers elected under the provisions of either section 3 or section 4 of this act shall have qualified in accordance with law, all persons, if any, then in possession of the offices of such corporation, shall immediately quit and surrender up the possession of such offices and shall deliver to the officers so elected all moneys, books, papers, or other things in their official custody, and all property of such corporation in their hands, notwithstanding that the terms of office for which they were respectively elected or appointed may not then have expired; and all officers, boards, and persons holding any property in trust for any public use, the administration of which use is vested by such general laws in such corporation, or in any of its officers, shall, upon demand from such corporation or such officers, convey such property to such corporation or such officers, by good and sufficient deeds of conveyance, in trust for such public use.

Boundary, how changed.

§ 7. The boundaries of any municipal corporation may be altered, and new territory included therein, after proceedings had as required in this section. The council, board of trustees, or other legislative body of such corporation shall, upon receiving a petition therefor, signed by not less than one-fifth of the qualified electors thereof, as shown by the vote cast at the last municipal election held therein, submit to the electors of such corporation, and to the electors residing in the territory proposed by such petition to be annexed to such corporation, the question whether such territory shall be annexed to such corporation and

become a part thereof. Such question shall be submitted at a special election, to be held for that purpose, and such legislative body shall give notice thereof by publication in a newspaper printed and published in such corporation, and also in a newspaper printed and published outside of such corporation, and in the county in which such territory so proposed to be annexed is situated, in both cases for a period of four weeks prior to such election. Such notice shall distinctly state the proposition to be so submitted, and shall designate specifically the boundaries of the territory so proposed to be annexed; and the electors shall be invited thereby to vote upon such proposition, by placing upon their ballots the words "For annexation," or "Against annexation," or words equivalent thereto. Such legislative body shall also designate the place or places at which the polls will be opened in such territory so proposed to be annexed, which place or places shall be that or those usually used for that purpose within such territory, if any such there be. Such legislative body shall also appoint and designate in such notice the names of the officers of election. Such legislative body shall meet on the Monday next succeeding the day of such election, and proceed to canvass the votes cast thereat. The votes cast in such territory so proposed to be annexed shall be canvassed separately, and if it shall appear upon such canvass that a majority of all the votes cast in such territory and a majority of all the votes cast in such corporation shall be for annexation, such legislative body shall, by an order entered upon their minutes, cause their clerk, or other officer performing the duties of clerk, to make and transmit to the secretary of state a certified abstract of such vote; which abstract shall show the whole number of electors voting in such territory, the whole number of electors voting in such corporation, the number of votes cast in each for annexation and the number of votes cast in each against annexation. From and after the date of the filing of such abstract, such annexation shall be deemed complete, and thereafter such territory shall be and remain a part of such corporation; provided, that no property within such territory so annexed shall ever be taxed to pay any portion of any indebtedness of such corporation, contracted prior to or existing at the date of such annexation. If the territory so proposed to be annexed consists, in whole or in part, of any municipal corporation, or part thereof, such territory shall not be annexed under the provisions of this section.

Municipal corporations, how consolidated.

§ 8. Two or more contiguous municipal corporations may become consolidated into one corporation after proceedings had as required in this section. The council, board of trustees, or other legislative body of either of such corporations shall, upon receiving a petition therefor, signed by not less than one-fifth of the qualified electors of each of such corporations, as shown by the votes cast at the last municipal election held in each of such corporations, submit to the electors of each of such corporations the question whether such corporations shall become consolidated into one corporation. Such legislative body shall designate a day upon which a special election shall be held in each of

the officers elected at such election shall be entitled immediately to enter upon the duties of their respective offices, upon qualifying in accordance with law, and shall hold such offices, respectively, only until the next general municipal election to be held in such city and county, city, or town, and until their successors are elected and qualified.

Effect of reincorporation.

§ 5. Any city and county, city, or town organized under the provisions of section 4 of this act shall, for all purposes, be deemed and taken to be in law the identical corporation theretofore incorporated and existing; and such reorganization shall in no wise affect or impair the title to any property owned or held by such corporation, or in trust therefor, or any debts, demands, liabilities, or obligations existing in favor of or against such corporation, or any proceeding then pending; nor shall the same operate to repeal or affect in any manner any ordinance theretofore passed or adopted and remaining unrepealed, or, to discharge any person from any liability, civil or criminal, then existing, for any violation of any such ordinance; but such ordinances, so far as the same are not in conflict with such general laws, shall be and remain in force until repealed or amended by competent authority; provided, that proceedings theretofore commenced shall, after such reorganization, be conducted in accordance with the provisions of such general laws.

Duty of outgoing officers.

§ 6. As soon as the officers elected under the provisions of either section 3 or section 4 of this act shall have qualified in accordance with law, all persons, if any, then in possession of the offices of such corporation, shall immediately quit and surrender up the possession of such offices and shall deliver to the officers so elected all moneys, books, papers, or other things in their official custody, and all property of such corporation in their hands, notwithstanding that the terms of office for which they were respectively elected or appointed may not then have expired; and all officers, boards, and persons holding any property in trust for any public use, the administration of which use is vested by such general laws in such corporation, or in any of its officers, shall, upon demand from such corporation or such officers, convey such property to such corporation or such officers, by good and sufficient deeds of conveyance, in trust for such public use.

Boundary, how changed.

§ 7. The boundaries of any municipal corporation may be altered, and new territory included therein, after proceedings had as required in this section. The council, board of trustees, or other legislative body of such corporation shall, upon receiving a petition therefor, signed by not less than one-fifth of the qualified electors thereof, as shown by the vote cast at the last municipal election held therein, submit to the electors of such corporation, and to the electors residing in the territory proposed by such petition to be annexed to such corporation, the question whether such territory shall be annexed to such corporation and

become a part thereof. Such question shall be submitted at a special election, to be held for that purpose, and such legislative body shall give notice thereof by publication in a newspaper printed and published in such corporation, and also in a newspaper printed and published outside of such corporation, and in the county in which such territory so proposed to be annexed is situated, in both cases for a period of four weeks prior to such election. Such notice shall distinctly state the proposition to be so submitted, and shall designate specifically the boundaries of the territory so proposed to be annexed; and the electors shall be invited thereby to vote upon such proposition, by placing upon their ballots the words "For annexation," or "Against annexation," or words equivalent thereto. Such legislative body shall also designate the place or places at which the polls will be opened in such territory so proposed to be annexed, which place or places shall be that or those usually used for that purpose within such territory, if any such there be. Such legislative body shall also appoint and designate in such notice the names of the officers of election. Such legislative body shall meet on the Monday next succeeding the day of such election, and proceed to canvass the votes cast thereat. The votes cast in such territory so proposed to be annexed shall be canvassed separately, and if it shall appear upon such canvass that a majority of all the votes cast in such territory and a majority of all the votes cast in such corporation shall be for annexation, such legislative body shall, by an order entered upon their minutes, cause their clerk, or other officer performing the duties of clerk, to make and transmit to the secretary of state a certified abstract of such vote; which abstract shall show the whole number of electors voting in such territory, the whole number of electors voting in such corporation, the number of votes cast in each for annexation and the number of votes cast in each against annexation. From and after the date of the filing of such abstract, such annexation shall be deemed complete, and thereafter such territory shall be and remain a part of such corporation; provided, that no property within such territory so annexed shall ever be taxed to pay any portion of any indebtedness of such corporation, contracted prior to or existing at the date of such annexation. If the territory so proposed to be annexed consists, in whole or in part, of any municipal corporation, or part thereof, such territory shall not be annexed under the provisions of this section.

Municipal corporations, how consolidated.

§ 8. Two or more contiguous municipal corporations may become consolidated into one corporation after proceedings had as required in this section. The council, board of trustees, or other legislative body of either of such corporations shall, upon receiving a petition therefor, signed by not less than one-fifth of the qualified electors of each of such corporations, as shown by the votes cast at the last municipal election held in each of such corporations, submit to the electors of each of such corporations the question whether such corporations shall become consolidated into one corporation. Such legislative body shall designate a day upon which a special election shall be held in each of

such corporations to determine whether such consolidation shall be effected, and shall give written notice thereof to the council, board of trustees, or other legislative body of each of the other of such corporations, which notice shall designate the name of the proposed new corporation. It shall thereupon be the duty of such legislative body of each of the corporations so proposed to be consolidated to give notice of such election, by publication in a newspaper printed and published in such corporation, for a period of four weeks prior to such election. Such notice shall distinctly state the proposition to be so submitted, the name of the corporations so proposed to be consolidated, the name of the proposed new corporation, and the class to which such proposed new corporation will belong; and shall invite the electors to vote upon such proposition by placing upon their ballots the words "For consolidation," or "Against consolidation," or words equivalent thereto. The legislative bodies of each of such corporations shall meet in joint convention at the usual place of meeting of the legislative body of that one of such corporations having the greatest population, as shown by the last federal census, on the Monday next succeeding the day of such election, and proceed to canvass the votes cast thereat. The votes cast in each of such corporations shall be canvassed separately; and if it shall appear upon such canvass that a majority of the votes cast in each of such corporations shall be for consolidation, such joint convention, by an order entered upon their minutes, shall cause the clerk, or other officer performing the duties of clerk, of the legislative body at whose place of meeting such joint convention is held, to make a certified abstract of such vote; which abstract shall show the whole number of electors voting at such election in each of such corporations, the number of votes cast in each for consolidation, and the number of votes cast in each against consolidation. Such abstract shall be recorded upon the minutes of the legislative body of each of such corporations; and immediately upon the record thereof, it shall be the duty of the clerk, or other officer performing the duties of clerk, of each of such legislative bodies to transmit to the secretary of state a certified copy of such abstract. Immediately after such filing, the legislative body of that one of such corporations having the greatest population, as shown by the last federal census, shall call a special election, to be held in such new corporation for the election of the officers required by law to be elected in corporations of the class to which such new corporation shall belong, which election shall be held within six months thereafter. Such election shall be called and conducted in all respects in the manner prescribed, or that may hereafter be prescribed, by law for municipal elections in corporations of such class, and shall be canvassed by the legislative body so calling the same, who shall immediately declare the result thereof, and cause the same to be entered upon their journal. From and after the date of such entry, such corporations shall be deemed to be consolidated into one corporation, under the name and style of the city and county (or city or town as the case may be) of — (naming it), with the powers conferred, or that may hereafter be conferred, by

law upon municipal corporations of the class to which the same shall so belong; and the officers elected at such election shall be entitled immediately to enter upon the duties of their respective offices, upon qualifying in accordance with law, and shall hold such offices, respectively, only until the next general municipal election to be held in such city and county, city, or town, and until their successors are elected and qualified. All the provisions of sections 5 and 6 of this act shall apply to such corporation and to the officers thereof; provided, that no property within either of the former corporations so consolidated shall ever be taxed to pay any portion of any indebtedness of either of the other of such former corporations contracted prior to or existing at the date of such consolidation.

§ 9. The city clerk of each municipal corporation and the city recorder of each municipal corporation where there is no city clerk shall have the powers and shall perform the duties of a registrar within such municipality which are prescribed and required by the provisions of an act entitled, "An act for the registration of deaths, the issuance and registration of burial and disinterment permits, and the establishment of registration districts in counties, cities and counties, cities, and incorporated towns, under the superintendence of the state bureau of vital statistics and prescribing the powers and duties of registrars, coroners, physicians, undertakers, sextons and other persons in relation to such registration and fixing penalties for the violation of this act." [New section approved March 20, 1905. Stats. 1905, p. 408. In effect March 31st, 1905.]

CHAPTER II.

Municipal Corporations of the First Class.

(Cities having a population of more than 100,000.)

Article I.—General Powers.

First class.

§ 19. Every municipal corporation of the first class shall be entitled the city and county of —, or the city of — (naming it), as the case may be, and by such name shall have perpetual succession, may sue and be sued in all courts and places, and in all proceedings whatever; shall have and use a common seal, alterable at the pleasure of the city authorities, and may purchase, lease, receive, hold, and enjoy real and personal property, and control and dispose of the same for the common benefit.

Article II.—General Provisions Relating to Officers.

Names, numbers, and terms of officers.

§ 20. There shall be elected by the qualified voters of such city, or city and county, at the general state election to be held on the first Tuesday after the first Monday of the month of November in each even-numbered year, the following officers, viz.: A mayor, sheriff, auditor, tax collector, treasurer, county clerk, recorder, district attorney, city or city and county attorney, coroner, surveyor, superintendent of streets,

twelve school directors, six justices of the peace, public administrator, and two police judges, who shall hold office for two years. The terms of such officers shall commence on the first Monday after the first day of January next following their election. Also, twelve aldermen, in the manner, and who shall hold office, as provided in section 41 of this chapter, and twelve assistant aldermen, who shall hold office as provided in section 43 of this chapter.

What offices kept open.

§ 21. The mayor, sheriff, county clerk, county recorder, treasurer, district attorney, auditor, tax collector, assessor, city or city and county attorney, superintendent of streets, and surveyor shall keep public offices, which shall be kept open for the transaction of business every day in the year except Sundays, Christmas, New Year's, Fourth of July, Thanksgiving, the twenty-second of February, and on any days during which a general election shall be held, between the hours of nine o'clock A. M. and five o'clock P. M.

Manner of filling vacancies.

§ 22. Whenever vacancies occur in any of the elective offices of such city, or city and county, and provision is not otherwise made in this or some other act for filling the same, the mayor shall appoint, subject to the confirmation of the board of aldermen, a person to discharge the duties of such office until the next election, when the vacancy shall be filled by election for the unexpired term. All persons so appointed shall, before entering upon their duties, take the oath of office, and give bonds as required by law.

What fees paid out of treasury.

§ 23. No fees or compensation to be paid out of the treasury, other than those expressly allowed in this chapter, shall be allowed or received by any officer of such city, or city and county, or of any district, or other subdivision thereof; nor shall any allowance or provision be made for them, or any of them, at the public expense beyond the fixed compensation herein provided under the name of office rent, fuel, lights, stationery, contingencies, extra services, or otherwise, except the compensation or percentage allowed to the tax collector and to the assessor in the collection of poll taxes, and except that the necessary and proper books, stationery, and official blanks may, at the discretion of the municipal council, be purchased and supplied for all the courts of such city, or city and county, its officers, municipal council, and other boards, and officers, the expense whereof, when the amount in each particular case shall have been previously authorized and fixed by the municipal council, may be paid out of the general fund, upon demand upon the treasury duly audited, as in this chapter provided.

Bonds, how given.

§ 24. All officers of such city, or city and county, must, before they can enter upon their official duties, give a bond as required by law. The bonds and sureties of such officers must be approved by the president

of the board of aldermen, auditor, and a judge of the superior court, in and for such city and county, or in and for the county in which such city may be situated. When the amount of such official bond is not fixed by law, it shall be fixed by the municipal council. No banker residing or doing business in such city, or city and county, nor any such banker's partner, clerk, employee, agent, attorney, father, or brother, shall be received as surety for the treasurer, mayor, sheriff, auditor, or any officer having the collection, custody, or disbursement of money. No person can be admitted as surety on any such bond unless he be worth, in fixed property, including mortgages, situated in such city, or city and county, the amount of his undertaking over and above all sums for which he is already liable, or in any manner bound, whether as principal, indorser, or security, or whether such prior obligation or liability be conditional or absolute, liquidated, or unliquidated, certain or contingent, due or to become due. All persons offered as sureties on official bonds must be examined on oath touching their qualifications. The official bond of the auditor shall be filed and kept in the office of the clerk of such city, or city and county. All other official bonds shall be filed and kept in the office of the auditor; provided that the bonds and sureties of the mayor must be approved by the chairman of the house of assistant aldermen, auditor, and a judge of the superior court in and for such city and county, or in and for the county in which such city may be situated; and that the bonds and sureties of the auditor must be approved by the president of the board of aldermen, the chairman of the house of assistant aldermen, and a judge of the superior court in and for such city and county, or in and for the county in which such city may be situated.

Compensation.

§ 25. The compensation or salary of any officer provided for in this chapter shall not be increased or reduced after his election or during his term of office.

Salaries.

§ 26. The salaries of the officers, clerks, deputies, or employees of such city and county, except as otherwise in this chapter provided, shall be as follows, and payable in monthly installments at the end of each and every month, viz.:

Mayor and clerk.

1. The salary of the mayor shall be four thousand dollars per annum; he may appoint a clerk, to be known as the mayor's clerk, whose salary shall be one thousand eight hundred dollars per annum.

Sheriff, deputies, attorney, etc.

2. The salary of the sheriff shall be six thousand dollars per annum; he may appoint one under-sheriff, whose salary shall be two thousand four hundred dollars per annum; one bookkeeper, whose salary shall be two thousand four hundred dollars per annum; he may appoint twenty-five deputies, each of whom shall receive a salary of one thousand six

hundred dollars per annum, one of which said deputies shall be assigned to and perform the duties of assistant bookkeeper; sixteen deputies, whose salaries shall be one thousand five hundred dollars per annum; one counsel, who shall be an attorney of the supreme court of the state, whose salary shall be one thousand eight hundred dollars per annum; one matron, whose salary shall be nine hundred dollars per annum; one driver of prison wagon, whose salary shall be nine hundred dollars per annum.

Auditor and deputies.

3. The salary of the auditor shall be four thousand dollars per annum; he may appoint one deputy, whose salary shall be twenty-four hundred dollars per annum; and two clerks at a salary of one thousand six hundred dollars per annum each.

Treasurer and deputies.

4. The salary of the treasurer shall be four thousand dollars per annum; he may appoint one chief deputy, whose salary shall be two thousand four hundred dollars per annum, and one deputy, whose salary shall be two thousand one hundred dollars per annum.

Tax collector, deputies, etc.

5. The salary of the tax collector shall be four thousand dollars per annum; he may appoint one chief deputy, one cashier, each of whom shall receive a salary of two thousand dollars per annum, and ten permanent deputies, whose salary shall be one thousand six hundred dollars per annum each.

Assessor, deputies, etc.

6. The salary of the assessor shall be four thousand dollars per annum; he may appoint one chief office deputy, one chief field deputy, and one head draughtsman, each of whom shall receive a salary of two thousand dollars per annum; an assistant draughtsman, who shall receive a salary of one thousand eight hundred dollars per annum; and eleven office deputies, each of whom shall receive a salary of one thousand eight hundred dollars per annum. He may also appoint such additional deputies as may be allowed by the municipal council, at salaries not to exceed five dollars per day each, for such time as they may be employed.

Recorder, deputies, etc.

7. The salary of the recorder shall be three thousand dollars per annum; he may appoint one chief deputy, whose salary shall be two thousand four hundred dollars per annum, and two deputies, each of whom shall receive a salary of one thousand eight hundred dollars per annum; also, two porters, who shall perform the duties of watchmen; each of whom shall receive a salary of nine hundred dollars per annum.

County clerk, deputies, etc.

8. The salary of the county clerk shall be four thousand dollars per annum; he may appoint deputies as follows: one chief deputy, whose

salary shall be two thousand four hundred dollars per annum; twelve courtroom clerks, twelve registry clerks, each of whom shall receive a salary of one thousand eight hundred dollars per annum; twelve assistant registry clerks, each of whom shall receive a salary of one thousand five hundred dollars per annum; and twelve copyists, each of whom shall receive a salary of one thousand six hundred dollars per annum; and such county clerk, when the exigencies of his office shall require, may, in his discretion, employ such additional copyists as shall be necessary, at a compensation not to exceed three dollars per day for the days of actual service; provided, said number shall not exceed at any one time three copyists for each judge of the superior court, to be paid from the treasury in the same manner as the salaries herein provided for are to be paid.

District attorney, assistants, etc.

9. The salary of the district attorney shall be five thousand dollars per annum; he may appoint two assistants, who shall be attorneys of the supreme court of this state, each of whom shall receive a salary of two thousand four hundred dollars per annum, and two clerks, who shall be attorneys of the supreme court of the state, each of whom shall receive a salary of one thousand five hundred dollars per annum.

City and county attorney and assistants.

10. The salary of the city, or city and county, attorney shall be four thousand dollars per annum; he may appoint two assistants, who shall be attorneys of the supreme court of this state, each of whom shall receive a salary of two thousand four hundred dollars per annum; and one copyist, who shall receive a salary of nine hundred dollars per annum.

Coroner and deputies.

11. The salary of the coroner shall be three thousand dollars per annum; he may appoint two deputies, one to act as first deputy, whose salary shall be one thousand six hundred dollars per annum, the other to act as second deputy and whose salary shall be one thousand five hundred dollars per annum; and one messenger, to take charge of the dead-wagon, and perform such other duties as are required by the coroner or his deputies. The salary of the messenger shall be nine hundred dollars per annum.

Superintendent of streets and deputies.

12. The salary of superintendent of streets shall be four thousand dollars per annum; he may appoint twenty deputies; three of said deputies shall receive a salary of two hundred dollars per month each, and seven of said deputies shall receive a salary of one hundred and fifty dollars per month each, and ten of said deputies shall receive a salary of one hundred and twenty-five dollars per month each.

Surveyor.

13. The salary of the city, or city and county, surveyor, shall be four thousand dollars per annum; he may appoint as many deputies, not to

composed of two boards or houses of legislation, one to be called the "board of aldermen," and the other the "house of assistant aldermen."

Board of aldermen, how elected.

§ 41. The board of aldermen shall consist of twelve persons, to be elected by general ticket, from the city, or city and county, at large, the members of which shall hold office for the term of four years, to commence on the first Monday after the first day of January next following their election, except that of the aldermen, who are elected at the first election under this chapter; the six receiving the smallest number of votes shall hold their office for two years only; so that thereafter only six shall be elected every two years. In case of a tie vote at such first election, the question of which aldermen shall hold the full and which the short term shall be determined between the candidates so tied by lot. The aldermen shall receive each a salary of one thousand two hundred dollars a year, payable in monthly installments, out of the general fund.

Secretary.

§ 42. The board of aldermen shall appoint a secretary, with a salary not to exceed two hundred dollars a month, who shall keep the records of said board. He shall hold office during the pleasure of the board. He shall have power to administer oaths and affirmations in all cases, and to certify and authenticate copies of all records, papers, and documents in his official custody, and shall perform any other services required by the board.

Assistant aldermen.

§ 43. The house of assistant aldermen shall consist of twelve persons, to be elected every two years, one each by the qualified electors of the respective wards, into twelve of which such city, or city and county, shall be divided for such purpose. The assistant aldermen shall hold office for the term of two years, to commence on the first Monday after the first day of January next following their election, and shall receive each a salary of one thousand two hundred dollars a year, payable monthly out of the general fund.

Salary of clerk.

§ 44. The house of assistant aldermen may appoint a clerk, who shall keep their records, and hold office during their pleasure. He shall have a salary not to exceed two hundred dollars a month; shall have power to administer oaths and affirmations, and to certify and authenticate all records, documents, and papers in his official custody. He shall perform any other service required of him by the house.

Vacancy, how filled.

§ 45. Any vacancy occurring in either board shall be filled by the mayor; and the person appointed to fill such vacancy shall hold office till the next election by the people, and until his successor is qualified.

Qualification.

§ 46. Every member of the board of aldermen shall be a qualified voter, at least twenty-five years of age, and shall have been a citizen of the United States and of this state, and a resident of such city, or city and county, for three years next before his election or appointment.

Qualification.

§ 47. Every member of the house of assistant aldermen shall be a qualified voter, at least twenty-five years of age, shall have been a citizen of the United States and of this state, and a resident of such city, or city and county, at least two years, and of the ward from which he is elected or appointed at least one year next before his election or appointment.

Qualification.

§ 48. Every member of either branch of the municipal council shall, at all times during his incumbency of said office, possess the following qualifications: He shall not be, directly or indirectly, interested in any contract with such city, or city and county, or any department or institution thereof. He shall not have been convicted of malfeasance in office, bribery, or other corrupt practices or crimes. Any member who fails to possess, or who shall at any time during his term of office cease to possess, any of the qualifications mentioned in this act as a qualification shall thereby forfeit his seat in the board or house to which he belongs, and the vacancy shall be filled as in other cases. If any member of either branch absent himself from the state, or neglect to attend the meeting of the board or house to which he belongs, for a period of thirty days, his office shall be declared vacant by said board, and a successor must be appointed, to hold till the next election by the people, as provided in other cases.

Rules of houses of aldermen.

§ 49. Each board or house shall elect its own officers, except as to the presiding officer of the board of aldermen. The mayor shall preside at all the sessions of the board of aldermen, without the right to vote. In his absence, during any session, the board shall appoint one of its members as president pro tempore, who shall, however, have the same right to vote as other members. Each house shall be the judge of the election returns and qualifications of its own members, and may determine the rules of its own proceedings, except as herein provided. Each house shall keep a record of its acts, and allow the same to be published, and the yeas and nays on any question shall, at the request of any member, be entered on the journal of the house; may arrest and punish by fine, not exceeding five hundred dollars, or imprisonment as provided by ordinance, not exceeding thirty days, or both, any person not a member who shall be guilty of disrespect to the board or house by disorderly or contemptuous behavior in its presence during its session; may punish its members for disorderly conduct, and, with the concurrence of two thirds of all the members elect, may expel a member.

Quorum.

§ 50. The house of assistant aldermen shall elect one of their own number presiding officer of said house, who shall be designated as the "chairman" thereof. A majority of the members of either house shall constitute a quorum to do business; and no regulation, resolution, ordinance, or order of either house can pass without the concurrence of a majority of all the members elected or appointed to such house; but a smaller number may adjourn from day to day, and may compel the attendance of absent members, in such manner and under such penalties as the house or board may provide.

Sessions shall be public.

§ 51. All sessions, acts, and resolutions of each house shall be public. Neither house shall, without the consent of the other, adjourn for more than seven days at any one time, nor to any other place than that in which the two houses may be sitting.

Not eligible to any other office.

§ 52. No member of the municipal council shall during the time for which he is elected, be eligible or appointed to any other office under the city, or city and county, except such offices as may be filled by election by the people; nor shall any member, while such, be an employee of such city, or city and county, or any board or department thereof, or of either branch of the municipal council, in any capacity whatever; and no compensation shall be audited or paid for services as such officer or employee; and no act, ordinance, or resolutions shall ever be passed whereby any member of either house shall become the disbursing officer of such city, or city and county, or any board or department thereof, or pay out any of its money upon any pretense whatever.

Limitations on contracts.

§ 53. No member of the municipal council, or of the board of education, or any officer of such city, or city and county, or of any ward thereof, shall have any power to contract any debt or liability whatsoever against such city, or city and county, nor shall the people, or taxpayers, or any property therein, ever be liable to be assessed for or on account of any debt or liability hereafter contracted, or attempted to be contracted, in contravention of this chapter.

Finance committee.

§ 54. The municipal council shall appoint a joint committee of five, three from the board of aldermen, and two from the house of assistant aldermen, to be denominated the "finance committee," which committee may at any time, and shall whenever required by the municipal council, or either branch thereof, investigate the transactions and accounts of any and all officers appertaining to the government of such city, or city and county, having the collection, custody, or disbursement of public money, or having the power to approve, allow, or audit demands on the treasurer, and report thereon to the municipal council. Said committee

shall have full power to send for all persons and papers, and enter into, examine, inquire, and investigate all offices and places, to administer oaths and affirmations, to examine witnesses, and compel their attendance by subpoena and attachment for contempt, and the production of records, books, and papers, and may imprison in the city or county jail any person refusing to appear or testify, as well as any officer or person failing or refusing obedience to the orders to show records, papers, or books, or to testify when required so to do. The sheriff or any policeman of such city, or city and county, shall enforce all orders of said committee, and attend upon it in like manner as upon courts of record. The mayor may be present and participate in such investigations.

When municipal council shall meet.

§ 55. The municipal council shall meet on the first Monday after the first day of January, and on the first Mondays of April, July, and October of each year, and at such other times as required by law, and may be specially convoked by the mayor as herein provided.

Passage of ordinances.

§ 56. No ordinance shall be passed except by bill, and no bill shall be so amended in its passage as to change its original object. No bill shall contain more than one subject, which shall be expressed by its title. On the final passage of all bills the vote shall be by "yeas" and "nays" upon each bill, separately, and the names of the members voting for and against the same shall be entered on the journal. Bills may originate in either house, and no bill shall be passed by either house except by a majority vote of all the members elected or appointed to either house.

Amendments, how concurred in.

§ 57. No amendments to bills by either house shall be concurred in by the other except by a vote of a majority of all the members elected or appointed thereto, taken by yeas and nays, and the names of those voting for and against recorded upon the journal thereof; and reports of committees of conference shall be adopted by either house only by the vote of a majority of all the members elected thereto, taken by "yeas" and "nays," and the names of those voting recorded upon the journals.

Re-enacting ordinances.

§ 58. No ordinance shall be revived, re-enacted, or amended, by mere reference to its title, but such ordinance or section shall [be] set forth at length, as if it revived, re-enacted, or amended.

Reconsideration.

§ 59. When a bill is put upon its final passage in either house, and failing to pass, a motion is made to reconsider the vote by which it was defeated, the vote upon such motion to reconsider shall be taken up, and the subject finally disposed of at the next meeting of the council, unless such house, by a two-thirds vote, decides to act upon such reconsideration at the same meeting.

Signing bills.

§ 60. No bill shall become an ordinance until the same shall have been signed by the presiding officer of each of the two houses in open session, in authentication of its adoption by such house. In signing such bill for authentication, the presiding officer shall call the attention of the house to the bill, and that he is about to sign it, and if any member request, the bill shall be read at length for information as to its correctness as enrolled. If any member object that the bill is not the same in substance and form as when considered and passed by the house, such objection shall be passed upon, and if sustained, the presiding officer shall withhold his signature and the bill shall then be corrected, and finally disposed of, and signed, before the house proceeds to any other business.

Appropriation bills.

§ 61. No general appropriation act or authorization shall ever be passed, but all appropriations shall be for the specific amount of the claim to be paid, and no more; and each ordinance or resolution authorizing the payment of money shall contain one claim only, which shall be expressed in the title. Every ordinance or resolution of the municipal council providing for any specific improvement, the granting of any privilege, or involving the lease or appropriation of public property, or the expenditures of public moneys, except for sums less than five hundred dollars, or levying tax or assessment, and every ordinance or resolution imposing a new duty or penalty, shall, after its introduction in either house, be published, with the "yeas" and "nays," in a newspaper doing the city and county printing, at least five successive days before final action upon the same by the house in which it was introduced; and in case such ordinance or resolution shall be amended before final passage in said house, then the bill as amended, shall be so published, in the same manner, before final action by such house thereon; and every such ordinance, after the same shall have passed both houses, shall, before it takes effect, be presented to the mayor for his approval. If he approves, he shall sign it; if not, he shall return it within ten days to the house in which the same originated, with his objections in writing. Said house shall then enter the objections on the journal, and publish them in the newspaper doing the city printing. At the next stated meeting thereafter, said house shall proceed to reconsider such bill. If, after such reconsideration, it again passes both houses by the votes of nine of the members elected or appointed to each house voting therefor, it shall become a law, notwithstanding the mayor's objections. Should any such ordinance or resolution not be returned by the mayor within ten days after he receives it, it shall become valid, the same as if it had received his signature. Where a claim against the treasury amounts to more than five hundred dollars it shall not be lawful to divide or break up the same into several sums of less than that amount so as to evade the provisions of this section concerning claims; and any effort or attempt to accomplish such unlawful division, or breaking up a claim, shall be deemed, as to every member of the municipal council or other officer consenting thereto,

or aiding the same, a misdemeanor in office, and be cause for his removal. All ordinances authorizing the payment of any money out of the treasury, or any claim thereon, shall be referred to the appropriate standing committee of the house where the bill is introduced, who shall present the same to the auditor, in order that he may certify that there is sufficient money in the proper fund out of which such claim can lawfully be paid, and that such appropriation can be made without violating the provisions of this chapter; and until the auditor certifies in writing, signed by his name, that there is sufficient money in the proper fund, and that the authorization can be made without violating the provisions of this chapter, no further proceedings shall be had with such bill. It shall be the duty of the auditor with reasonable promptness, to ascertain the facts, and to give the certificate when the facts warrant him in doing so, and not otherwise.

Powers.

§ 62. The powers of the municipal council, and all other boards, commissioners, and officers, are those specially named in this chapter, and they are prohibited from exercising any other.

Enacting clause.

§ 63. The enacting clause of ordinances shall be in the following terms: "The municipal council of the city and county of —, or city of — (as the case may be), hereby ordains as follows."

Further powers.

§ 64. The municipal council shall further have power by regulation or ordinance:

Selling and leasing property.

1. To provide for the security, custody and administration of all property of such city, or city and county, and to purchase land required for municipal purposes without any power to sell or encumber the same, or lease any part thereof for more than three years; except, however, that such personal property belonging to the fire, street, or other departments, as they deem unsuited to the uses and purposes for which the same was designed, or so much worn and dilapidated as not to be worth repairing, may be sold or exchanged.

Opening streets.

2. To provide for cases omitted in this chapter, and in conformity with the principles adopted in it, for opening, altering, extending, constructing, repairing, or otherwise improving public streets and highways at the expense of the property benefited thereby, without any recourse in any event upon such city, or city and county, or the public treasury, for any portion of the expense of such work, or any delinquency of the property holders or owners.

Lighting streets.

3. To provide for lighting the streets. But no contract for lighting streets or public buildings shall ever be made for more than one year in

duration; nor shall any contract to pay more for gas or other illuminating material than is legally charged to ordinary consumers, or than the usual market rates, be valid.

To provide water.

4. To provide water for all municipal purposes and to pay for the same where lawful and necessary. In case water is supplied to such city, or city and county, for municipal purposes, any person, corporation, or association holding a valid franchise under the laws of this state to collect water rates for the use of water, then such city, or city and county, when it is lawful and necessary, shall pay the lawful rates, and no more, as established each year for water supplied for other than municipal purposes; and it shall not be lawful to make any special contract with such person, corporation, or association for water so as to vary from the rates fixed by law.

To regulate markets.

5. To regulate market-houses and market-places.

Regulating public grounds.

6. To provide for inclosing, improving, and regulating all public grounds of such city, or city and county.

Establish fire limits, etc.

7. To prohibit the erection of wooden buildings or structures within any fixed limits where the streets have been established and graded, or ordered to be graded, or to restrict and limit the height of such buildings or structures; to regulate the sale, storage, and use of gunpowder, and to restrict the limits within which may be manufactured or kept giant-powder, dynamite, nitroglycerine, or other explosive or combustible materials and substances, and the maintenance of acid works; and make all useful regulations in relation to the manufacture, storage, and transportation of all such substances, and the maintenance of acid works, slaughter-houses, brick-burning, tanneries, and all other manufactures and works of every description that may jeopardize the public safety, and to exclude them from the city, or city and county, when necessary, or to restrict them, or any of them, to a district. To make all necessary regulations for protection against fire, as well as such rules and regulations concerning the erection and use of buildings as may be necessary for the safety of the inhabitants.

To permit laying down railroad tracks.

8. To permit the laying down of railroad tracks and the running of cars thereon along any street, or portion of street, for the sole purpose of excavating and filling in a street, or a portion of a street, or adjoining lots, and for such limited time as may be necessary for the purpose aforesaid, and no longer.

Fix penalties.

9. To determine the fines, forfeitures, and penalties that shall be incurred for the breach of regulations established by the said municipal

council, and also for a violation of the provisions of this chapter, where no penalty is affixed thereto or provided by law; but no penalty to be imposed shall exceed the amount of one thousand dollars, or six months' imprisonment, or both. And every violation of any lawful order or regulation, or ordinances of the municipal council, is hereby declared a misdemeanor or public offense, and all prosecutions for the same shall be in the name of the people of the state of California.

Employment of prisoners.

10. To regulate and provide for the employment of prisoners sentenced to labor on the public works of such city, or city and county, and to maintain and regulate city, or city and county, jails and prisons, with manufacturing or other laboring establishments, or appliances connected therewith.

To provide certain offices.

11. To provide a suitable office and jury-room and dead-house or morgue, with the furniture necessary to enable the coroner to efficiently discharge the duties of his office, and to make the necessary appropriation therefor; and to audit and pay for the necessary expenses of maintaining the morgue and offices attached, such sum as may be necessary, not to exceed seventy-five dollars per month, out of the general fund.

Regulate home of inebriate.

12. To maintain and regulate a home of the inebriate, in its discretion.

City prison.

13. To provide and maintain a city prison.

Improve cemeteries.

14. To maintain and improve the city cemeteries, and to pay out of the general fund a keeper thereof, to be appointed by the board of health, at a salary not to exceed one hundred dollars a month.

Grant licenses.

15. To license and regulate hackney carriages and other public passenger vehicles, and to fix the rates to be charged for the transportation of persons, baggage, goods, merchandise, and property, or either, thereon; and to license and regulate all vehicles used for the conveyance of merchandise, earth, and ballast, or either; and also to license and regulate persons and parties employed in conveying baggage, property, and merchandise, or either, to or from any of the wharves, slips, bulkheads, or railroad stations within the limits of such city, or city and county; to fix and establish the amount of every license paid into the city, or city and county, treasury for city, or city and county, purposes; to provide for the summary removal and disposition of any or all vehicles found in the streets, highways, and public squares during certain hours of the day or night, to be designated by the council; and, in addition to all other remedies, to provide by regulation for the sale or other disposition of such vehicles; to protect the public from injury by runaways, by pun-

ishing persons who negligently leave horses or carriages in the street; to prescribe the width of the tires of all drays, trucks, and carts, in accordance with the weight to be carried thereby, for the preservation of the streets and highways.

Grant licenses.

16. To regulate, license, and control the business of keeping intelligence offices, prescribe the method of conducting said business, and to enforce, by fines and penalties, the payment of the license, and by any violation of the regulation touching said business. To license and regulate pawnbrokers, and to enact regulations to protect the public in dealing with them.

Fix fees.

17. To fix the fees and charges to be collected by the surveyor of such city, or city and county, for certificates or surveys for buildings or other purposes, and to provide for a sufficient corps of deputy surveyors to perform such work, to be paid from such fees only; also, to regulate the fees to be charged by the superintendent of streets, the county recorder, and any and all other municipal officers whose their fees are not otherwise fixed by law, and compel the payment of all such fees and charges into the city and county treasury into the proper fund, in accordance with the provisions of this act.

Enforce collection of certain moneys.

18. To license and regulate, for the purposes of city, or city and county, revenue, all such callings, trades, and employments as the public good may require to be licensed and regulated, and as are not prohibited by law; to provide for and enforce, with penalties, or otherwise, the collection and due payment into the city, or city and county, treasury of all moneys so due or raised, and to make all needful rules and regulations to govern the official conduct and duties of the collector of licenses.

Construction of hydrants.

19. To provide and pay for the construction and repair of hydrants, fire plugs, cisterns, and pumps in the streets.

Pay for celebrating.

20. To allow and order paid out of the general fund a sum not to exceed three thousand dollars in any year, for the celebration in such city, or city and county, of the anniversary of our national independence.

Election expenses.

21. To allow and order paid out of the general fund for the election expenses of such city, or city and county, not to exceed forty dollars for each election precinct for each election in said city, or city and county.

Prosecute claims.

22. To provide ways and means for the prosecution of the claims of such city, or city and county, to any land or other property or right claimed by such municipality.

Appoint weigher of coal.

23. To provide for the appointment by the mayor for a weigher of coal, without salary, and to regulate and define his duties, and establish rates of charges to be collected from persons requiring his services, and for his compensation from such rates and charges alone, and with no claim upon such city, or city and county.

Abatement of nuisances.

24. To authorize and direct the summary abatement of nuisances; to make all regulations which may be necessary or expedient for the preservation of the public health and the prevention of contagious diseases; to provide fines and penalties against individuals who may be guilty of maintaining any nuisances, and enforcing the same until such nuisance be removed or abated; to provide by regulation for the prevention and summary removal of all nuisances and obstructions in the streets, alleys, highways, and public grounds of such city, or city and county, and to prevent or regulate the running at large of dogs, and to authorize the destruction of the same when at large contrary to ordinance.

Regulate or prohibit houses of ill-fame.

25. To prohibit, suppress, regulate, or exclude from certain limits all houses of ill-fame, prostitution, and gaming; to prohibit, suppress, regulate, or exclude from certain limits all occupations, houses, places, pastimes, amusements, exhibitions, and practices which are against good morals, contrary to public order and decency, or dangerous to the public safety.

Regulate manner of street work.

26. To require, by ordinance, all contractors for street work, or other persons lawfully undertaking to improve, grade, or alter streets or public highways, to erect fences or barriers, to keep lights at night, and to take other necessary precautions to protect the public from damage, loss, or accident by reason of such grading, alteration, or improvement, and to fix and prescribe penalties for the violation of the provisions of such ordinance.

Safekeeping of lost property.

27. To provide for the safekeeping and disposition of lost, stolen, or unclaimed property of every kind, which may at any time be in the possession or under the control of the police of such city, or city and county.

Suppress public demonstrations.

28. To regulate, and when necessary to suppress, all public demonstrations and processions which interfere with public traffic.

Regulation of fire department.

29. To appoint a fire marshal. Such appointment shall be made on the nomination of the board of fire underwriters of such city, or city and county, if such board shall exist therein. If more than one such board shall exist therein, then upon the nomination of the board which

shall have been longest organized. His salary shall be fixed and paid by such board of fire underwriters. Such fire marshal shall, before entering upon the office, take and subscribe the oath of office, and execute a bond to the state of California in the sum of five thousand dollars, with two or more sureties, to be approved by a judge of the superior court, for the faithful discharge of his duties. Any person aggrieved by any misconduct of such marshal, or his deputy, may bring an action in his own name upon such official bond, which bond shall be filed in the office of the county clerk. It shall be the duty of such fire marshal to attend all fires which may occur in such city, or city and county, with a badge of office, conspicuously displayed. He shall take charge of and protect all property which may be imperiled at any such fire, and safely keep the same under his possession and control until satisfactory proof of ownership be made thereto; and shall, as far as practicable, prevent such property from being injured at such fire, and direct, when in his opinion it shall be necessary, the removal of goods, merchandise, and other property to a place of safety. He shall be authorized and empowered to exercise the functions of a peace officer of such city, or city and county. Any person who shall willfully hinder or obstruct said officer in the lawful discharge of his duties shall be deemed guilty of a misdemeanor; provided, however, that nothing herein contained shall be so construed as to authorize such fire marshal to interfere in any manner with the proper discharge of the lawful duties and authority of any chief engineer of any fire department of such city and county. It shall be the duty of such fire marshal to institute investigations into the cause of such fires as occur in such city, or city and county; and for this purpose he shall have power to issue subpoenas and administer oaths, and compel the attendance of witnesses before him by attachment or otherwise. All subpoenas issued by him shall be in such form as he may prescribe, and shall be directed to and served by any police officer, or by any peace officer of such city, or city and county. Any witness who refuses to attend or testify in obedience to such subpoena shall be deemed guilty of contempt, and be punishable by him as in cases of contempt in justices' courts in civil cases. He shall make a written report of the testimony to the district attorney, and institute criminal prosecutions in all cases in which there appears to him to be a reasonable and probable cause for believing that a fire has been caused by design. It shall be the duty of such fire marshal to aid in the enforcement of the fire ordinances of such city, or city and county, and for this purpose he is duly authorized to visit and examine all buildings in process of erection or undergoing repairs, and to institute prosecutions for all violations of the ordinances of such city, or city and county, which relate to the erection, alteration, or repairs of buildings, and for the prevention of fires. He shall exercise such additional powers as may be conferred upon him by the ordinances of such city, or city and county, to enable him fully to carry out the object and purpose of his appointment, and for the prevention of fires. He shall have the power to appoint a deputy, who may exercise all the powers and perform all the duties of such marshal. The

salary of such deputy shall be paid in the same manner as the fire marshal. Any person who saves from fire, or from a building endangered by fire, any property, and who willfully neglects for two days to give notice to such fire marshal, or to the owner of such property, of his possession thereof, shall be deemed guilty of grand or petit larceny, as the case may be, according to the value of said property; and any person who shall be guilty of false swearing in any investigation under this subdivision shall be deemed guilty of perjury, and, upon conviction thereof, shall be punished therefor as in other cases of perjury. Such fire marshal may be removed at any time by the same power or powers that appointed him. And in case of the removal, resignation, or death of such fire marshal, his successor shall be appointed in the same manner as hereinbefore provided. Such fire marshal is hereby authorized and empowered to appoint one or more persons, during the time of fire, for the purpose of saving and protecting property at such fire, and until it shall be delivered to the owner or claimant thereof, and such person or persons so appointed shall have, during such period, the authority and power of a policeman of such city, or city and county, and shall be known as the fire marshal's police; and each of such persons shall wear, while in the discharge of his duty, conspicuously displayed on his person, such badge or device as such fire marshal shall designate. No person shall be entitled to any property in the hands of such fire marshal, saved from fire, until satisfactory proof of ownership be made, and until the actual expenses incurred by such officer for the preservation and keeping of the same shall be paid to him by the owner or claimant of said property; and in case of dispute as to the amount of such expenses, said dispute to be determined by the justices' court of such city, or city and county. Such fire marshal is hereby duly authorized and empowered to hold and sell, or cause to be sold, at public auction, all property in his possession, saved from a fire or fires, for which no owner can be found, after advertising the same in two daily newspapers published in such city, or city and county, for the period of thirty days; provided, however, that if, upon application of such fire marshal to the police judge, it shall appear that such property is perishable, such judge may order such fire marshal to make sale thereof upon such notice as in the opinion of such judge may be reasonable. The proceeds of all such sales, together with an account thereof, after deducting all expenses, shall be by him deposited with the treasurer of such city, or city and county, to be held by such treasurer, subject to the claim of the owner of such property. Such fire marshal shall, from time to time, file with the clerk of such city, or city and county, under oath, a statement and description of all property in his possession, or under his control and sold by him, together with the amount of money by him deposited with the treasurer of such city, or city and county.

Maintain fire-alarm.

30. To maintain a fire-alarm and police telegraph in such city, or city and county.

Regulate drifting of sand.

31. To require the owners of lots to prevent sand from drifting, being blown, or otherwise moved therefrom, into or deposited upon any paved, planked, or macadamized street, alley, place, park, thoroughfare, or other public property, and to enforce all such regulations by sufficient fines and penalties.

Maintain house of correction.

32. To maintain, regulate, govern, manage, and carry on a house of correction, and to utilize therein and thereby the labor of all persons committed to the jail or house of correction of such city, or city and county, by the police courts and the superior courts; to prescribe rules of commitment and detention of prisoners, hours of labor, and all necessary rules, regulations, and restrictions for the proper operation of said institution. All prisoners sentenced to a term in the county jail, or house of correction, shall be deemed to have been sentenced to labor during such term. The judges of police courts and of the superior courts in such city or city and county, may sentence criminals to the house of correction when, in the judgment of such judge, the criminal is too young to be sentenced to the state prison, or when it is deemed better for the well-being of the prisoner. No person shall be sentenced to imprisonment in the house of correction for a shorter or longer term than that for which he might be sentenced in the jail of such city, or city and county, or in the state prison; and in no case whatever for a shorter term than three months nor for a longer term than three years. No person who might be sentenced to imprisonment in the state prison shall be sentenced to imprisonment in the house of correction if he is more than twenty-five years of age, if he has been once before convicted of a felony, or twice before convicted of petit larceny, nor unless, in the opinion of the court, imprisonment in the house of correction will be more for his interest than imprisonment in the state prison, and equally for the interest of the public. The fact of a previous conviction may be found by the court upon evidence introduced at the time of sentence. The board of aldermen of the city, or city and county, shall appoint a competent superintendent of the house of correction of such city and county, who shall also be treasurer of said house of correction, and who shall give good and sufficient bonds, in a sum, and with sureties, to be approved by said board of aldermen, for the faithful discharge of his duties, and to whom shall be paid a salary, to be fixed by them, not to exceed two hundred and fifty dollars per month, payable monthly. Said superintendent shall only be removed for just and sufficient legal cause, after a fair and impartial investigation of his case by said board of aldermen. He shall, immediately after his appointment, and when authorized by said board of aldermen, appoint, subject to the approval thereof, such subordinates as may be deemed necessary by the board of aldermen; and the pay of such subordinates shall be fixed by said board of aldermen, not exceeding one hundred dollars per month to each party so appointed. The superintendent shall manage the general interests of the institution; see that its affairs are conducted in accordance with the

requirements of this chapter and of such by-laws as the board of aldermen may from time to time adopt for the orderly and economical management of its concerns; to see that strict discipline is maintained therein; to provide employment for the inmates; adjust and certify all claims against the institution. And all by-laws made by said board of aldermen for the management of said institution, and not contrary to the laws of this state, shall be binding, in all respects, upon said superintendent, officers, and inmates; and said superintendent shall each year prepare and submit, under oath, to the board of aldermen a report of the concerns of said institution. The superintendent shall reside at the house of correction, have charge of its inmates and property, and be its treasurer; keep accounts of all his receipts and expenditures, and of all such property and account in such manner as the said municipal council may require, and hold all books and papers open to their inspection.

Maintain an industrial school.

33. To maintain and regulate an industrial school for the detention, management, reformation, education, and maintenance of such children, under the age of eighteen years, as shall be committed or surrendered thereto by the courts of such city, or city and county, as vagrants, living an idle or dissolute life, or who shall be convicted by the police or superior court of any crime or misdemeanor, or who, being tried for any crime or misdemeanor in such court, shall be found to be under fourteen years of age, and to have done an act which, if done by a person of full age, would be a crime or misdemeanor; and said council is empowered to regulate the commitment, detention and discharge of such children, and to designate and prescribe the causes, terms, and conditions thereof; and the said police court and superior court shall have power to adjudge that such persons so convicted shall be so imprisoned; and persons so convicted shall remain at said industrial school until he or she shall attain majority, unless a shorter time shall be fixed by said court in the commitment. Such children shall be kept at such employments and be instructed in such branches of useful knowledge as may be suitable to their age and capacity. The municipal council may provide for binding out such children as apprentices during their minority, to learn proper trades and employments. There shall be a superintendent of said industrial school, to be appointed by the board of aldermen. He shall be deemed a public officer, whose salary shall not exceed two hundred and fifty dollars per month, and such other employees as may be necessary, with salary not to exceed one hundred dollars per month each. Such police and superior court, or either of them, upon the application of the board of aldermen, and upon its certificate that it is expedient to do so, shall have power to discharge any child committed to said industrial school, and who is not bound out as an apprentice, or adopted, and may in like manner discharge such child upon the application, in writing, of the parents or guardian of such child, who shall not have been bound out or adopted, and after ten days' notice, in writing, to the board of aldermen, if, upon the hearing of the application, such police court or superior court shall consider that such discharge is expedient.

Maintain almshouse, etc.

34. To establish and maintain an almshouse, a city and county hospital, a smallpox hospital, and such other institutions of the same character as are or may be necessary, and to perpetuate such institutions as may have been heretofore established in such cities, or cities and counties, heretofore incorporated.

Payment of judgment.

35. To order paid out of the general fund any final judgment against such city, or city and county.

Public pound.

36. To maintain, regulate, and govern a public pound, fix the limits within which animals shall not run at large, and appoint poundkeepers, who shall be paid for out of the fines imposed and collected of the owners of impounded animals, and from no other source.

Improvement of waterfront.

37. To allow and order paid out of the street department fund such sums as may be deemed necessary for improvement of streets bordering on the waterfront, and improvement of sewers and streets in front of public property.

Burial of indigent dead.

38. To allow and order paid out of the general fund such sums as may be necessary for burying the indigent dead.

Pay of special counsel.

39. To allow and order paid out of the general fund such sums, not to exceed five thousand dollars in any one fiscal year, as may be deemed necessary for the employment of special counsel.

Enact certain regulations.

40. To enact such general and special police regulations for such city, or city and county, as shall secure the health, comfort, and security of the inhabitants, the safety and security of property and life, and to enforce the same therein.

Regulation of offices and departments.

41. To make needful rules and regulations for the administration, care, and maintenance and conduct of all departments and offices of such city, or city and county, when not otherwise in this chapter provided for, so as to secure more perfect safety of the public funds, and greater efficiency in all departments of the service, and to enforce the observation of such rules and regulations, and to authorize the appointment of such additional clerks, assistant deputies, and employees as in their judgment may be necessary for the proper discharge of the duties of such offices and departments.

General fund.

42. To appropriate the moneys derived from the revenue of such city, or city and county, to a general fund, and such funds as have

been heretofore or shall be hereafter established by law, or the said council, and as shall be necessary for the proper and economical administration of such city, or city and county.

Free library.

43. To establish, maintain, and regulate free public libraries and reading-rooms, and to perpetuate such free libraries and reading-rooms as may have been heretofore established in such cities, or cities and counties, heretofore incorporated.

Law library.

44. To provide, fit up, and furnish, and provide with fuel, lights, stationery, and all necessary attendance, conveniences, and care, rooms convenient and accessible to the courts, sufficient for the use and accommodation of a law library and those who have occasion to use it, and approved by the officers having the government of said library, and to perpetuate and in the same manner provide for any law library now existing in such city, or city and county, the use of which has been secured by law to the courts, the bar, and the city, or city and county government. The municipal council shall have power, and it shall be their duty, to appropriate, allow, and order paid out of the proper fund such sums as may be necessary therefor.

Medical dispensary.

45. To establish and maintain a free medical dispensary, and to perpetuate any such heretofore existing in such city, or city and county.

Building committee.

46. To appoint a committee of five, three from the board of aldermen and two from the house of assistant aldermen, to be denominated the "Building Committee," to superintend the construction of buildings hereafter to be constructed for such city, or city and county, or now in progress of construction therefor, and to appoint a secretary for such committee, and to fix his compensation, and, if necessary, also to appoint a superintendent and architect therefor, fix their respective compensation, and require of such superintendent and architect to execute bonds, with two sureties, conditioned for the faithful performance of their duty, in such sums as may be deemed necessary.

Division of city into wards.

47. To divide the city, or city and county, by ordinance, into twelve wards, to fix the boundaries thereof, and to change the same from time to time; provided, that no change in the boundaries of any ward shall be made within sixty days next before the date of said general election, nor within twenty months after the same shall have been established or altered.

Levy and collection of revenue.

48. To provide for the levy, collection, and appropriation of revenue heretofore by law provided to be collected for the erection and comple-

tion of any public building in and for such city, or city and county, in the manner as heretofore provided by any law of this state for the levy, collection, and appropriation of the same.

Board of equalization.

§ 65. The municipal council shall constitute a board of equalization for such city, or city and county, and as such shall have the powers conferred by the general laws regulating the assessment and collection of taxes, when not inconsistent with the provisions of this chapter.

Definition of public streets.

§ 66. All the streets, lanes, alleys, places, or courts, as laid down on the official map of such city, or city and county, and all other streets, lanes, alleys, places or courts now dedicated or open to public use, are hereby declared to be open public streets, lanes, alleys, places or courts for the purpose of this chapter; and the municipal council is invested with jurisdiction to order any of the work mentioned in section 67 of this act to be done on any of said streets, lanes, alleys, places, or courts, when the grade and width of said streets, lanes, alleys, places, or courts have been officially established; and for the purposes of this chapter the grade of all intermediate or intersecting streets, lanes, alleys, places, or courts in any one block shall conform to the grades as established of the crossings of the main streets.

Grading streets.

§ 67. The municipal council is hereby authorized and empowered to order the whole or any portion of the said streets, lanes, alleys, places, or courts graded or regraded to the official grade, planked or replanked, paved or repaved, macadamized or remacadamized, piled or repiled, capped or recapped, and to order sidewalks, sewers, cess-pools, man-holes, culverts, curbing, and cross-walks to be constructed, and to order any streets and sewers cleaned, and to order any other work to be done which shall be necessary to make and complete the whole or any portion of said streets, lanes, alleys, places, or courts, and they may order any of the said work to be improved; and when any street, or portion of a street has been or shall hereafter be constructed to the satisfaction of the municipal council and the superintendent of streets, and shall have a brick sewer, or cement or iron-stone pipe constructed therein, under such regulations as said municipal council shall adopt, the same shall be accepted by it, and thereafter shall be kept open and improved by such city, or city and county, the expense thereof, together with all work done in front of city, or city and county, property, to be paid out of the street department fund, or other proper fund; provided, that the municipal council shall not accept of any portion of the street less than the entire width of the roadway (including the curbing and one block in length, or one entire crossing); and provided further, that it may, partially or conditionally, accept any street, or portion of a street, without a sewer or pipe therein as above stated, if a sewer or pipe therein shall be deemed by them unnecessary; but the lots of land pre-

viously assessable for the cost of construction of a sewer or pipe shall still remain and be assessable for such cost, and for the cost of repair and restoration of the street damaged in the said construction, when thereafter a sewer or pipe shall be deemed necessary, the same as if no partial or conditional acceptance had ever been had. The said superintendent of streets shall keep in his office a register of all accepted streets, the same to be indexed so that reference may be easily had thereto.

Special assessment for work on private property.

§ 68. The municipal council may order work authorized by this chapter, the cost and expense of which is made chargeable, or may be assessed upon private property by special assessment, to be done, after notice of its intention so to do in the form of a resolution describing the work, and signed by the clerks of both branches of the municipal council, has been published for the period of five days in the paper doing the printing for such city, or city and county, and also in two daily newspapers, one of which newspapers shall be published as a morning edition and one as an evening edition, printed and published in such city, or city and county, for five days, Sundays and nonjudicial days excepted; provided, that no such notice shall be given or order made for the grading of any street, unless the majority of the frontage of the lots and land fronting on the work proposed to be done, and described in said resolution, or which is to be made liable for such grading, except public property, shall have been represented by the owners thereof, or by their agents, in a petition to the said municipal council, stating that they are the owners and in possession or agents of the lots named in the petition, and also requesting that such improvements or street work shall be done. All owners of lands, or lots, or portions of lots, who may feel aggrieved, or have objection to the ordering of the work described in said notice, or who may have objection to any of the subsequent proceedings of the municipal council in relation to the work mentioned in such notices of intention, or may have any objections to any of the acts of the superintendent of streets, and the city, or city and county, surveyor of such city, or city and county, in the discharge of any of the obligations or duties imposed upon him or them by virtue of their offices, shall file with the clerk of either branch of the municipal council a petition or remonstrance, wherein they shall set forth in what respect they feel aggrieved, or the acts or proceedings to which they object, which petition or remonstrance shall be passed upon by the municipal council, and its decisions thereon shall be final and conclusive; but the municipal council shall not order the work described in said notices to be done unless all objections and protests, that may have been presented and filed as aforesaid shall have been by them disposed of. Should the owners or agents of more than one-half in frontage of the lots and lands fronting on the work proposed to be done, and designated in said notice of resolution or liable to be assessed for work, file with the clerk of either branch of the municipal council written objections against any grading described in said notice, at any time before the expiration of the publication of said notice of intention,

and the publication thereof, as hereinbefore provided, then and thereupon the municipal council shall be barred from proceeding further for the period of six months, and shall not renew the notice of intention for doing any street work so protested against within six months, unless the owners or agents of a majority of the frontage of the lots and land fronting on said street work, or liable to be assessed therefor as aforesaid, shall petition anew for the work to be done. At the expiration of any notice of intention, the municipal council shall be deemed to have acquired jurisdiction to order any work to be done which is authorized by this chapter; and it is further provided, that where any public street shall have been graded, or graded and macadamized, or graded and paved, for the distance of one or two blocks upon each side thereof of any one or two blocks or crossing of a street which is not improved, it shall be the duty of the municipal council, upon the recommendation of the superintendent of streets, to order the notice provided in this section to be given without the petition provided first aforesaid; and if the owners of three-fourths of the frontage of the land and lots fronting on such portions of said streets to be graded or improved shall, within the time prescribed in said notice, file written objections to the improvement of the said street, such objection shall be a bar for six months for the doing of said work or making said improvement, except when the work or improvement proposed to be done is the construction of sewers, man-holes, culverts, cross-walks, and sidewalks, the municipal council shall duly consider said objections before ordering said work; and if it shall decide and declare by an entry in the minutes of both branches thereof that the objections so made are not good, thereupon it shall be deemed to have acquired jurisdiction to order any such street work to be done that is described in said notice; provided further, that when one-half or more of the grading, planking, macadamizing, paving, sidewalking, or sewerage of any one street, lying between two main street-crossings, has been already performed, the municipal council may order the remainder of such grading, planking, macadamizing, paving, sidewalking, or sewerage to be done, notwithstanding the objections of any or all of the property owners.

Manner of compelling certain street work to be done.

§ 69. The owners of more than one-half in frontage of lots and lands fronting on any street, lane, alley, place, or court, mentioned in section 66 of this act, or their duly authorized agents, may petition the said municipal council to order any of the work mentioned in section 67 of this act to be done; and the said board may order the work mentioned in said petition to be done, after notice of their intention so to do has been published as provided in section 68 of this act. No order or permission shall be given to grade, or pile and cap, any street, lane, alley, place, or court, in the first instance, or any portion thereof, without extending or completing the same throughout the whole width of said street, lane, alley, place, or court. When any such work has heretofore been done, or when any such work shall hereafter be done, in violation of this section, neither the lots nor portions of lots in front of which

such work has been or may be done hereafter, nor the owners thereof, shall be exempt from assessments made for the payment of the work afterwards done to complete said street, lane, alley, place or court to its full width, as provided in this chapter.

May be transmitted.

§ 70. At the expiration of publication of such notice, the clerk of either branch of the municipal council shall cause to be transmitted to the city, or city and county, surveyor, and to the superintendent of streets of such city, or city and county, a copy of the resolution, order or ordinance authorizing the said street work. The said surveyor shall thereupon, within fifteen days from the completion of the publication mentioned in the last section, transmit to said municipal council a map of the district to be benefited by said street improvement; which map shall show the relative location of each lot to the work proposed to be done, and be signed by said surveyor. The superintendent of streets shall also thereupon, within fifteen days from the completion of said publication, transmit to the municipal council an estimate of the cost and expense of said improvement, which said estimate shall contain the items composing the gross sum estimated, and shall be signed by said superintendent.

Adoption or modification of map.

§ 71. The municipal council shall, at the first meeting after the receipt of such map and estimate, or as soon as may be practicable, either adopt, modify, or reject the same, and after its final action upon said map and estimate, the same shall be transmitted to said superintendent of streets, who shall record the same in a book to be kept by him for such purpose; and the said superintendent shall forthwith prepare plans and specifications for such street work, and the clerk of either branch of the municipal council shall cause to be conspicuously posted in the office of said superintendent, and also published for five days (nonjudicial days excepted) in the newspapers hereinbefore mentioned, a notice inviting sealed proposals to contract for the work contemplated to be performed; such work not to be performed, nor any contract for the same made or entered into, until after the moneys sufficient for the payment of the costs and expenses thereof shall have been levied, collected, and paid into the treasury of such city, or city and county, as hereinafter provided; which notice shall substantially contain the plans and specifications above mentioned; and all notices, resolutions, and orders required to be posted or published under the provisions of this chapter shall be posted or published, or both posted and published, as the law may require, by said clerk, as a matter of course, and without any special direction or authority from said municipal council. The said superintendent shall furnish specifications for the performance of any and all street work ordered by the municipal council and authorized by this chapter, and the time within which said work must be completed after entering into the contract for doing the same. All proposals shall be delivered to the clerk of either branch of the municipal council, and

the house of which he is the clerk shall, in open session, open, examine, and publicly declare the same; and all proposals shall be for a price payable in gold coin of the United States; provided, said municipal council may reject any and all proposals should they deem it for the public good, and also may reject the proposals of any party who may be proved delinquent or unfaithful with any former contract with such city, or city and county; and if all proposals shall be rejected, the municipal council shall direct the clerk of either house thereof to again post said notice, and publish the same as in the first instance. All proposals shall be accompanied with a bond to such city, or city and county, to be approved by the clerk of either house of said municipal council, in the sum of one thousand dollars, and in such additional amount as may be fixed by said superintendent of streets, with two good and sufficient sureties, who must be freeholders of such city, or city and county, said sureties to justify in double the amount, conditioned that the party making such proposal shall, or will, within ten days after notice from said superintendent that the moneys for the cost and expenses for such work have been paid into the treasury, enter into a contract with such city, or city and county, in pursuance of such proposal, and to commence such work within five days after the execution of such contract, and complete the same within the time mentioned in the said plans and specifications, or either of them, or within any extended time; it is further provided, that all persons proposing, owners included, who shall fail to enter into any contract as herein provided, or to complete the contracts entered into, are hereby prohibited from proposing a second time for the same work; and in case of owners, they are hereby prohibited from electing to take the same work a second time, and from entering into any contract concerning the same. At any time within five days after such money has been paid into the treasury, the owners of a majority of the frontage of lots and lands liable to be assessed for said work, or their agents, and who shall make oath that they are such owners, or the agents of such owners, may elect to do the said work, and to enter into a written contract to do the whole work at the price for which the same is awarded, upon giving the bond as hereinafter provided; and they shall commence said work within five days after the execution of such contract, and shall prosecute it diligently and continuously, and complete it within the time limited in the contract, or within any extended time; but should the said contractor, or the property owners, fail to prosecute the same diligently or continuously, in the judgment of said superintendent, or complete it within the time prescribed in the contract, or within the extended time, then it shall be the duty of said superintendent to report the same to the municipal council, who shall immediately order the clerk of either branch of the municipal council to advertise for proposals as in the first instance, and relet the contract in the manner hereinbefore provided; and it is further provided that all contractors for street work shall, at the time of entering into said contract, execute a bond payable to such city, city or county, with two or more sureties, in the sum of not less

than one thousand dollars, and in such additional amount as may be fixed by said superintendent, conditioned for the faithful performance of said contract; and said sureties shall justify in double the amount of the penalty fixed in said bond; such sureties to justify before said superintendent or his deputy, and the qualifications and responsibility of such sureties shall be the same as prescribed for sureties on the official bonds of the officers of such city, or city and county; and it is further provided that in case of the nonfulfillment by the obligor in either of the bonds mentioned in this section, of the conditions thereof, it shall be the duty of the city, or city and county, attorney to sue for and collect the sum in said bond mentioned, in any court of competent jurisdiction, and pay the same into the city and county treasury, to the credit of the proper fund.

Assessment.

§ 72. After the proposal shall have been received and considered by the municipal council, the superintendent of streets shall make an assessment in proportion to the benefit upon all the land in the district shown upon said map. Said assessment shall show the work proposed to be done, the estimated cost thereof, the rate per front foot assessed against each lot within the assessment district, the amount of each assessment, the name of the owner of each lot, or portion of lot, if known to the superintendent, and if such owner be unknown, the word "unknown" shall be written opposite the number of the lot (but an assessment made to a person not the owner shall not render such assessment illegal), and the amount assessed thereon, the number of each lot, or portion of lot, assessed, and shall have attached thereto a diagram showing the assessment district, and the relative location of each lot assessed to the work proposed to be done, each lot being numbered in said assessment and diagram; and when completed, shall be signed by said superintendent, and transmitted to the board of aldermen.

Notice of hearing objections to assessment-roll.

§ 73. At the first meeting of the board of aldermen, after the receipt by it of the assessment made by said superintendent, as soon thereafter as may be practicable, it shall cause notice of the time and place of the hearing of all objections to said assessment to be published for at least five days (Sundays and nonjudicial days excepted), prior to the time of such hearing, in two daily newspapers, one published as a morning edition and one as an evening edition, in such city, or city and county. All objections shall be heard in open session of said board of aldermen. At said hearing said board of aldermen may alter, modify, or confirm said assessment, as it shall deem proper; and said superintendent shall thereupon record said assessment and diagram in a book to be kept by him for that purpose. When so recorded, the several amounts assessed shall be deemed a tax levied upon the lands described in said assessment and diagram, upon which they are respectively assessed, and shall be a lien upon such parcels of land. Said superintendent shall give to each assessment a number by which the fund collected for said work shall

be known, and shall immediately after the record of said assessment, as hereinbefore provided, deliver the said assessment and diagram to the tax collector of such city and county, who shall thereupon cause to be published for ten successive days (Sundays and nonjudicial days excepted), in two newspapers of general circulation, one of which shall be published as a morning edition and one as an evening edition, published in such city, or city and county, a notice containing a description of the proposed improvement, and of the portion of street or streets upon which the same is proposed to be done, that the same is in his hands for collection; that if said assessment is not paid within fifteen days from the date of the last publication of such notice, that the same will be delinquent; that the property assessed, and upon which the assessment remains unpaid, will be sold by said tax collector for said assessment, a brief description of the property assessed, the amount assessed thereon, and the time and place of sale, which shall be not less than five nor more than ten days after such delinquency.

Sale of property for unpaid taxes.

§ 74. On the day fixed for the sale, said tax collector, between the hours of 10 A. M. and 3 P. M., must commence the sale of the property advertised, upon which the assessment remains unpaid, and sell the same at public vendue, in the office of said tax collector, to the person who will take the least quantity of the respective parcels of land assessed, and pay the assessment thereon, together with two dollars to said tax collector for the duplicate certificate of sale. If the purchaser does not forthwith pay the amounts of the assessment and costs by him bid, the tax collector shall immediately proceed to sell such parcel or parcels again, in the same manner, for the amount of said assessment and costs.

Duplicate certificate.

§ 75. After receiving the amount of the assessment and costs, said tax collector must make out in duplicate a certificate, dated on the day of sale, showing the name of the person assessed, when known, a brief description of the property sold, the street improvement for which the assessment was levied, the number of the assessment, that it was sold for an assessment, the amount thereof, that the same is subject to redemption at any time within one year after sale, and specifying the date when the purchaser will be entitled to a deed; and upon payment to said tax collector of the fee for recording the same, said tax collector shall deliver one of such duplicates to the purchaser, and the same day file the other in the office of the recorder of the county, or city and county, who shall record the same.

Vesting of lien.

§ 76. Upon filing the said duplicate in the office of said recorder, the lien aforesaid is vested in the purchaser, and is only divested by payment to him, or to the treasurer of such city, or city and county, for his use, of the purchase money and costs, and two per cent per month and fraction of a month up to date of redemption thereon. A redemption

of the property sold may be made by the owner, or any party in interest, within twelve months from the date of purchase.

Deed to purchaser and conclusions of law.

§ 77. If property is not redeemed within twelve months from the date of such sale, the tax collector must make to the purchaser, or his assignee, a deed, reciting substantially the matters contained in the certificate, and that no person redeemed the property during the time allowed by law for its redemption. The matters recited in the certificate of sale must be recited in the deed, and such deed, duly acknowledged, shall be prima facie evidence that:

1. The property was assessed as required by law.
2. That the assessment was not paid.
3. That the property was sold at the proper time and place, and by the proper officer;
4. That the person who executed the deed was the proper officer therefor.
5. That the title to the property therein described is vested in the purchaser, his heirs, or assigns, free from all encumbrances, except taxes for purposes of revenue.

Payment into treasury by tax collector.

§ 78. Said tax collector shall daily pay into the treasury of such city, or city and county, to the credit of the proper street improvement fund, all moneys collected by him on account of such fund, and shall, upon the receipt of any assessment, mark the same paid upon the assessment-roll, and shall receipt to the person paying the same therefor, which receipt shall show the number of the street improvement fund, the work done, the number of the lot upon which the assessment is paid, and the amount thereof.

Certificate of payment into treasury.

§ 79. When the full amount of such assessment has been collected by said tax collector, the said collector shall certify to the superintendent of streets that the same has been collected and paid into the treasury of such city, or city and county. Upon the receipt of such certificate from the tax collector, the said superintendent shall forthwith notify the person whose proposal shall have been accepted by the municipal council, as aforesaid, of the payment of such money into the treasury, and that such city, or city and county, is ready to enter into a contract with such person for such work, in pursuance of said proposal; and said superintendent shall hold himself in readiness to execute said contract on behalf of such city, or city and county. The board of aldermen may extend the time of performance of the contract, as fixed by the contract of specifications, upon the recommendation of said superintendent; but the time of the performance shall in no event be in any manner extended beyond sixty days after the time fixed in such specifications or contract for the completion of said work.

Certificate to contractor and publication of notice.

§ 80. Whenever any contract shall have been completed to the satisfaction and acceptance of the superintendent of streets, he shall deliver to the contractor a certificate to that effect, and shall also notify said board of aldermen that said work and improvement, and the contract therefor, having been completed to his satisfaction and acceptance, and that he has given to said contractor his certificate to that effect. Thereupon said board of aldermen shall direct the clerk of said board to give notice by publication for five days, in a newspaper published and circulated in such city, or city and county, that said work and improvement, and the contract therefor, have been completed to the satisfaction and acceptance of the superintendent of streets of such city, or city and county.

Appeal of property owner.

§ 81. Any person owning property which has been assessed to pay the cost and expenses of such work and improvement, feeling aggrieved at the manner in which such work and improvement shall have been done, or feeling aggrieved at any act or determination of said superintendent of streets in relation to said work and improvement subsequent to the date of the execution of the contract therefor, shall, within five days from the first publication of said notice, appeal to said board of aldermen by briefly stating their objections in writing, and by filing the same with the clerk of said board. At the meeting of the board next ensuing after the expiration of said five days allowed above for filing said objections, the said board, if no objections have been filed, shall, by resolution, ratify and confirm all said acts of said superintendent of streets, and shall accept such work and improvement. But if any such objections last aforesaid shall have been filed within said five days, then said board shall fix the time for hearing such objections, and shall direct the clerk of said board to notify all persons desirous of being heard upon said objections of the time and place when and where said board will hear all parties desiring to be heard upon the same. Said notice shall be in writing, and shall be given by posting the same in three of the most conspicuous public places in such city, or city and county, and published five days in two daily newspapers (one morning and one evening edition), at least five days before the time set for said hearing. At the time and place fixed for said hearing of said objections, said board shall proceed to hear all parties present and desiring to be heard upon the matters specified in such objections. And whenever said board shall have determined, by personal inspection or otherwise, that said work and improvement objected to have been completed in all respects according to the contract therefor, they shall, by resolution, accept said work and improvement, and ratify and confirm all said acts of said superintendent of streets in relation thereto.

Notice to superintendent of streets.

§ 82. If, upon such hearing, said board of aldermen shall determine, by personal inspection or otherwise, that said work and improvement

have not been performed according to the contract therefor, then they shall notify the said superintendent of streets to that effect, specifying in said notice to him the particulars in which said contract has not been performed. And said superintendent of streets shall thereupon at once cause said contractor to complete said work and improvement under the contract therefor in those particulars specified by said board in said notice to said superintendent of streets. Whenever said board shall ascertain that said work and improvement have been completed in all respects according to the terms of the contract therefor, they shall, by resolution, accept such work and improvement. All acts and determinations of said board of aldermen upon appeals, under the provisions of this and the next preceding section, shall be final and conclusive upon all persons entitled to an appeal thereunder.

Payment to contractor.

§ 83. Whenever any work or improvement shall have been so completed upon any street, lane, alley, court, or place in such city, or city and county, for the payment of costs and expenses of which an assessment shall have been levied and collected under the provisions of this act, the said board of aldermen shall, by resolution, direct the treasurer to pay out of the appropriate fund, at the expiration of fifteen days from the passage of such resolution, to the contractor who shall have so completed said work and improvement, the amount to which he is entitled under the terms of his contract; provided, however, that such payment by the treasurer shall be made subject to the following provisions, to wit: that any person or persons who have performed labor upon or furnished materials for the construction of said work or improvement, may file within said fifteen days, with the treasurer, any written claim or claims he or they may have on account of such labor performed or materials furnished; and at the expiration of said fifteen days, said treasurer shall pay to said contractor the amount specified in said last-named resolution, less the aggregate amount of all such claims, if any, theretofore filed in accordance with the provisions of this section. Should any money be retained by said treasurer on account of such claim or claims, he shall pay over the amount of each claim only upon the order therefor of said contractor, indorsed by the claimant entitled thereto, or upon the order therefor of any court of competent jurisdiction.

Repayment of moneys.

§ 84. And when all moneys required to be paid by the said treasurer, under the last preceding section, shall have been by him paid, as required in said section, if there is any money remaining in the fund out of which said payments shall have been made as aforesaid, it shall be the duty of said treasurer immediately to report the amount of said remaining moneys to said board of aldermen. Thereupon it shall be the duty of said board to empower and direct said treasurer to distribute and repay such remaining moneys, and in the proportion of the amounts of the original assessments, to the persons by or for whom said original assessments were paid, or to their legal representatives. And it shall

be the duty of said treasurer, in each instance of such repayment, to require, receive and file away a receipt of said proportionate amount from said persons or their legal representatives. And in no case shall a contractor who has failed to fulfill the terms and conditions of his contract be entitled to receive any portion of the contract price therefor, and he shall be deemed to have forfeited all right to recover or receive any compensation whatever under said contract.

Kind of labor on accepted streets.

§ 85. No contract to do any work upon any accepted streets, other than cleaning streets and sewers, shall be let, but such work shall be done under the direction of the superintendent of streets, by laborers employed by such city, or city and county, through said superintendent, at such wages as may be from time to time fixed by the municipal council. All contracts for materials necessary to be used for work on accepted streets must be given by the municipal council to the lowest bidder offering adequate security, after due public notice, for not less than five days, in at least two newspapers published in such city, or city and county.

Repairing streets, sewer, etc.

§ 86. In case of urgent necessity, the superintendent of streets may, and it shall be his duty to, repair any of the unaccepted public streets, sewers, or crossings cornering thereon; and the expense of the same shall be paid out of the street-department fund, in the same manner as provided for the improvement of accepted streets; and all such repairs shall be made in uniformity with the work to be repaired, but such repairs between two main streets shall not exceed in cost the sum of two hundred dollars, and the repairs of any crossing shall not exceed in cost the sum of one hundred dollars; provided, the sums so expended shall not exceed the sum of two thousand dollars in any one month. Such work, and the material therefor, shall be performed and provided in the same manner as provided in the foregoing section concerning labor and material for accepted streets.

No recourse on city for damage for accident on defective street.

§ 87. No recourse shall be had against such city, or city and county, for damage to person or property suffered or sustained by or by reason of the defective condition of any street or public highway of such city, or city and county, whether originally existing or occasioned by construction, excavation, or embankment, or want of repair of said street or public highway; and whether such damage be occasioned by accident on said street or public highway, or by falling from or upon the same; but if any person, while carefully using any street or public highway of such city and county, graded, or in course of being graded, or carefully using any other street or public highway leading into or crossing the same, be injured, killed, lost, or destroyed; or any horses, animals, or other property be lost, injured, or destroyed, through any defect in said street or public highway, graded, or in course of being graded, as afore-

said, or by reason of any excavation or embankment in or of the same, or by falling from or upon such embankment or excavation, then the person or persons upon whom the law may impose the duty either to repair such defect or to guard the public from the excavation, embankment, or grading aforesaid, and also the officer or officers through whose official neglect such defect remained unrepaired, or said excavation or embankment remained unguarded as aforesaid, shall be jointly and severally liable to the person or persons injured for the damages sustained.

Improvement of streets by property owners.

§ 88. The superintendent of streets may require, at his option, by notice in writing, to be delivered to them personally or left on the premises, the owners, tenants, or occupants of lots or portions of lots liable to be assessed for work done under the provisions of this chapter, to improve forthwith any of the work mentioned in section 67 of this act in front of the property of which he is the owner, tenant, or occupant, to the center of the street or otherwise, as the case may require, or to remove all filth, sand, earth, or dirt from the street in front of the premises; and, by a like notice, to be served personally upon the president or any officer of a railroad corporation or company, or to be left at the office of said corporation or company, to require such corporation or company to improve forthwith any work mentioned in this chapter, which said corporation or company are required by law to do and perform; said notice to specify what improvement is required or work is to be done. After the expiration of five days, if such notice shall not have been complied with, such proceedings shall be taken by the proper authorities to cause the moneys necessary for the doing of such work to be paid into the treasury as is hereinbefore provided in reference to work and improvements upon unaccepted streets, and to be paid for in the same manner.

Notice, how served.

§ 89. Notices in writing, which are required to be given by the superintendent of streets, under the provisions of this chapter, may be served by any police officer, or by any male citizen over the age of twenty-one years, and the fact of such service shall be verified by the oath of the person making it, taken before the superintendent (who is hereby authorized to administer oaths), or any other person authorized to administer oaths. The superintendent of streets shall keep a record of the fact of giving such notices and proof of service, and shall keep the original proof thereof.

Levy of taxes.

§ 90. 1. On or before the fourth Monday of July, annually, the municipal council of such city, or city and county, shall levy the amount of taxes for city, or city and county, purposes, required by law to be levied upon all property not exempt from taxation; said amount to be such as the said council may deem sufficient to provide for the payment of all demands upon the treasury authorized by law to be paid out of

the same; provided, that such taxation, exclusive of any and all special taxes, now or which hereafter may be authorized by law, shall not in the aggregate exceed the rate of one dollar upon each one hundred dollars valuation of the property assessed; provided further, that the said municipal council shall, in making the said levy of taxes, apportion and divide the taxes so levied, and to be collected and applied to the several specific funds known as the corporation debt fund, general fund, school fund, street-light fund, street-department fund, or other fund provided for by law or by the said council, according to the estimate of said council of the necessities of the said funds, except that the rate for the school fund shall not exceed thirty-five dollars for each pupil who shall have attended and been taught the preceding year; and provided further, that the said municipal council shall authorize the disbursement of said money for the purposes hereafter mentioned; and at the close of each fiscal year the said council shall direct the treasurer to transfer all surplus moneys of all funds, excepting the school fund, after liquidating or providing for all outstanding demands upon said funds, to the general fund; but no money shall be transferred from either of the said funds to another, nor used in paying any demands upon such other fund, until all the indebtedness arising in any fiscal year, and payable out of said funds so raised for said fiscal year, shall have been paid and discharged.

Corporation debt fund.

2. The corporation debt fund shall be applied to and used for the payment of the interest, and to extinguish or provide for the extinguishment of the lawfully contracted funded debts of such city, or city and county, in accordance with laws in force at the time of the organization of such city, or city and county, under this act.

General fund.

3. The general fund shall be applied and used for the payment of all sums authorized by law to be paid out of the general fund, and not otherwise provided for in this chapter.

School fund.

4. The school fund shall be applied and used for the payment of all sums authorized by law to be paid out of the school fund.

Street-light fund.

5. The street-light fund shall be applied and used in the payment for lighting the streets of such city and county, and for the repair of lamps and posts, in pursuance of any existing or future legal contract of such city and county.

Street-department fund.

6. The street-department fund shall be applied and used for repairing and improving all streets, lanes, and the crossings thereof, which shall have been or hereafter may be accepted, so as to become a charge upon such city and county; for cleaning streets, lanes, crossings and sewers;

and for the expense of improvements of streets in front of school lots; for all street work in front of or assessable upon property belonging to such city and county; for all street work on the waterfront of such city and county, not by law assessable upon private property; for all work authorized by the said council, upon the recommendation of the superintendent of streets, as immediately essential for the safety of life, limb, or property, or necessary for public health, or which cannot be by law assessed upon private property, and for such other objects relating to streets and highways as shall be directed by law or said council to be paid therefrom. All moneys received from licenses on vehicles, from the income from street railroads, from fines and penalties for violation of any law or ordinance regulating vehicles on the public streets, shall be paid into the street-department fund.

No payment of public funds unless authorized by law.

§ 91. No payment can be made from the treasury or out of the public funds of such city, or city and county, unless the same be specifically authorized by law, nor unless the demand which is paid be duly audited, as in this chapter provided, and that must appear upon the face of it. No demand upon the treasury shall be allowed by the auditor in favor of any person, officer, company, or corporation, in any manner indebted thereto without first deducting the amount of such indebtedness, nor to any person or officer having the collection, custody, or disbursement of public funds, unless his account has been duly presented, passed, approved, and allowed, as required by law; nor in favor of any officer who shall have neglected to make his official returns or his reports, in writing, in the manner and at the time required by law, or by the regulations established by the municipal council; nor to any officer who shall have neglected or refused to comply with any of the provisions of this or any other act of the legislature regulating the duties of such officer, on being required in writing to comply therewith by the president of the board of aldermen, or any member of the finance committee of the municipal council; nor in favor of any officer for the time he shall have absented himself without lawful cause, from the duties of his office, during the office hours prescribed in this chapter; and the auditor may examine any officer receiving a salary from the treasury, on oath, touching such absence.

Definition of "audited."

§ 92. The term "audited," as used in this chapter with reference to demands upon the treasury, is to be understood [as] their having been presented to and passed upon by every officer and board of officers, and finally allowed as required by law; and this must appear upon the face of the paper representing the demand, or else it is not audited.

What demands to be audited.

§ 93. Every demand upon the treasury, except the salary of the auditor, and including the salary of the treasurer, must, before it can be paid, be presented to the auditor for such city, or city and county,

to be allowed, who shall satisfy himself whether the money is legally due and remains unpaid, and whether the payment thereof from the treasury of such city and county is authorized by law, and out of what fund. If he allow it, he shall indorse upon it the word "Allowed," with the name of the fund out of which it is payable, with the date of such allowance, and sign his name thereto; but the allowance or approval of the auditor, or the municipal council, or either branch thereof, or any board, committee, or officer, of any demand which, upon the face of it, appears not to have been expressly made by law payable out of the treasury or fund to be charged therewith, shall afford no warrant to the treasurer or other disbursing officer for paying the same. No demand can be approved, allowed, audited, or paid, unless it specify each several item, date, and value composing it, and refer to the law, by title, date, and section, authorizing the same.

Demands of auditor, how allowed.

§ 94. The demand of the auditor for his monthly salary shall be audited and allowed by the president of the board of aldermen. All other monthly demands on account of salaries, allowances, or compensations fixed by law or this act, and made payable out of the treasury of such city, or city and county, may be allowed by the auditor without any approval. All demands payable out of the school fund must, before they can be allowed by the auditor, or paid, be previously approved by the board of education, or by the president thereof, and superintendent of schools, acting under express authorization of said board. Demands for teachers' wages, or other expenses appertaining to any school, cannot be approved, allowed, or audited to any amount exceeding the share of school money which such school will be entitled to have apportioned to it during the current fiscal year. All other lawful demands payable out of the treasury, or any public funds of such city, or city and county, and not hereinbefore in this section specified, must, before they can be allowed by the auditor in any manner, or recognized or paid, be first approved by the municipal council, except, if the demand be under two hundred dollars, by the mayor and two members of the board of aldermen, appointed by the said board for that purpose, with power to act under and subject to its instructions and regulations during recess of the said board. The auditor must number and keep a record of all demands on the treasury allowed by him, showing the number, date, amount, and name of the original and present holder, on what account allowed, out of what fund payable, and, if previously approved, by what officer, officers, or board it has been so approved; and it shall be deemed a misdemeanor in office for the auditor to deliver any demand with his allowance thereon until this requisite shall have been complied with.

Who may administer oaths.

§ 95. The mayor, mayor's clerk, auditor, auditor's clerk, chief of police, police commissioners, president of the board of education, each member of the municipal council, and every other officer required by law or ordinance to allow, audit, or certify demands upon the treasury, or

to perform any other official act or function, shall have power to administer oaths and affirmations, and take and hear testimony, concerning any matter or thing concerning any demand upon the treasury, or otherwise relating to their official duties. Every officer who shall approve, allow, or pay any demand on the treasury not authorized by law, or by a valid ordinance of the municipal council, passed in accordance with the same, or in case it is the act of a board, who shall, as a member thereof, vote for the same, shall be liable to the city, or city and county, individually, and on his official bond, for the amount of the demand so illegally approved, allowed, or paid. Every citizen shall have the right to inspect the books of the auditor, treasurer, secretary of the board of aldermen, and clerk of the house of assistant aldermen, at any time during business hours. Copies or extracts from said books, duly certified, shall be given by the officer having the same in custody, to any citizen demanding the same and paying fifteen cents per folio of one hundred words for such copies or extracts.

Payment of audited demands.

§ 96. Every lawful demand upon the treasury, duly audited as in this chapter required, shall in all cases be paid on presentation, and canceled, and the proper entry thereof be made, if there be sufficient money in the treasury belonging to the fund out of which it is payable; but if there be not sufficient money belonging to said fund to pay such demand, then it shall be registered in a book to be kept by the treasurer for that purpose, showing its number, when presented, date, amount, name of the original holder, and on what account allowed, and out of what fund payable, and being so registered, shall be returned to the party presenting it, with an indorsement of the word "Registered," dated and signed by the treasurer.

Investigation of nonpayment of audited demands.

§ 97. Whenever any audited demand has been presented to the treasurer and not paid, and it be made known to the president of the board of aldermen, he shall proceed immediately to investigate the cause for such nonpayment, and if it be ascertained that the demand has been illegally and fraudulently approved or allowed, he shall cause the officer guilty of such illegal and fraudulent approval or allowance to be suspended and proceeded against for misconduct in office. If he ascertains that the demand has been duly audited and that the treasurer has funds applicable to the payment thereof, which, without reasonable grounds for doubt as to the legality of such payment, he refuses to apply thereto, he shall proceed against him as a defaulter. If it be ascertained that the demand was not paid for want of funds, then he shall cause the tax collector, or other officer or person who ought to have collected or to have paid the money into the treasury, if they have been grossly negligent therein, to be proceeded against according to law and without delay.

Receipts for money by all officers.

§ 98. The treasurer, for all money received into the treasury, and all other officers of such city, or city and county, receiving money from the

treasury for disbursement, shall give receipt for all moneys by them received, which receipt shall be presented to and countersigned by the auditor. The auditor, before countersigning any such receipt, shall number it and make an entry in a book of record to be kept in his office for that purpose, of the number, date, and amount, by whom and in whose favor given, and on what account. No such receipt shall be valid as evidence in favor of the person or officer receiving it till presented to the auditor and countersigned as aforesaid; and any person or officer using or offering to use such receipt as evidence in favor of such person or officer, of the payment specified in it, without being first countersigned as above required, shall forfeit to such city, or city and county, double the amount of money specified in such receipt.

Remedy against auditor and other officers.

§ 99. If any person feel aggrieved by the decision of the auditor, or other proper officer or officers of such city, or city and county, except the board of education, in the rejection of or refusal to approve or allow any demand upon the treasury presented by such person, he may appeal and have the same passed upon by the municipal council, whose decision thereon shall be final; and if the said council shall approve and allow the demand, it shall afterwards be presented to the auditor, and entered in the proper book, in like manner as other demands allowed by him, and an indorsement must be made of its having been so entered before it can be paid; but nothing herein contained shall be construed to bar the party presenting the claim from prosecuting the same in any court of competent jurisdiction; provided, that from the decision of the president of the board of education and superintendent of schools, refusing or not agreeing to allow any demand payable out of the school fund, the appeal shall be taken to the board of education, whose decision shall be final; but nothing herein contained shall be construed to bar the party presenting the claim from prosecuting the same in any court of competent jurisdiction.

Opinion of city attorney.

§ 100. In all cases of such appeals to the municipal council, or the board of education, if, in the opinion of said council or of said board deemed expedient, the opinion of the city, or city and county, attorney shall be required, and obtained in writing, read, and filed; and upon such appeal, and in all other cases upon the approval or allowance of any demand upon the treasury or school fund, the vote shall be taken by "yeas" and "nays," and entered upon the records.

Examination of books of treasurer and other officers.

§ 101. The president of the board of aldermen, in conjunction with the auditor and the chairman of the house of delegates of such city, or city and county, shall, every month, examine the books of the treasurer and other officers of such city, or city and county, having the collection and custody of the public funds, and shall be permitted, and it shall be their duty, to see and count over all the moneys remaining in

the hands of such treasurer, or other officer, after having previously ascertained the amount which should be remaining in his hands. The finance committee shall also, twice a year, viz., on the first Monday in July and January, make the same examination of books, count said money, and report the result to the municipal council. If they ascertain clearly that such treasurer, or other officer, is a defaulter, they shall forthwith take possession of all funds, books, and papers belonging to such office, and the president of the board of aldermen shall appoint a person to fill the same until the said defaulting officer can be proceeded against according to law, which shall be done without delay, and until the said officer shall be restored to duty, or office, or until his successor shall be appointed, or elected and qualified. The person so appointed shall give bonds and take the oath of office in the same manner as was required of the officer whose place he is appointed to fill. If the treasurer, or other officer so discharged as defaulter, be acquitted thereof, he shall resume his duties.

One-twelfth law.

§ 102. Neither the municipal council, the board of education, nor any other board, commission, committee, officer, or person, shall have power to authorize, allow, contract for, pay, or render payable, and they are prohibited from authorizing, allowing, contracting, paying, or rendering payable, in present or future, in any one month, any demand or demands, liability or liabilities, against the treasury of such city, city and county, or the funds thereof, which shall, in the aggregate, exceed one-twelfth part of the amount allowed by laws existing at the time of such contract, authorization, allowance, payment or liability, to be expended within the fiscal year of which said month is a part; provided, however, that if, at the beginning of any month, any money remains unexpended in any of the funds set apart for maintaining the municipal government of such city, or city and county, and which might lawfully have been expended the preceding month, such unexpended sum or sums may be carried forward and expended by order of the municipal council, for the same purpose allowed by law in any succeeding month of the fiscal year. All contracts, authorizations, allowances, payments, and liabilities to pay, made or attempted to be made, in violation of this section, shall be absolutely void, and shall never be the foundation or basis of a claim against the treasury of such city, or city and county; and all officers of such city, or city and county, are hereby charged with notice of the condition of the treasury of such city, or city and county, and the extent of the claims against the same.

Duties of certain officers under the one-twelfth law.

§ 103. It is the duty of the superintendent of streets to keep an exact account of all street and sewer work upon accepted streets, and it shall be the duty of the building committee to keep an account of all work done on all public buildings and every other expenditure chargeable against the treasury in any of the departments under charge of said building committee and officers; and it is the duty of the superintendent

of schools, the president of the board of education, the president of the board of fire commissioners, the president of the board of election directors, the president of the board of police commissioners, and every other officer and board having the power to contract any demand, or to aid in the contraction of any demand, against said treasury, to keep an exact and full account of all purchases, expenditures, and liabilities made or contracted in their respective departments; and for the purpose of making such accounts, said officers shall have power to demand and receive from every other city, or city and county, officer, detailed statements in writing, when necessary to keep said accounts, and it is hereby made the duty of any and all officers to furnish said statements when demanded; such accounts shall be constantly posted up to date, so that it can be known exactly at any time what part or proportion of the monthly sum allowed by this chapter and existing laws has been contracted for, paid, or rendered liable to pay in the present and future. Such accounts shall show every contract for street and sewer work, public buildings, purchases of material, or supplies, or other expenditure, in whatever department it is made, from its incipency through the various stages of progress to completion, with the amount to be paid for the same so far as the same is capable of exact estimation, and when not, then a sworn estimate by the proper officer of the probable cost. Whenever, at any time, the contracts performed or unperformed, claims due or to become due, exceed said one-twelfth part of the amount that can be lawfully expended out of any fund in the current fiscal year, the president of the board, head of department, or other officer or board having the supervision of such expenditure, shall give notice thereof in writing, as to his or their department, to the auditor and the treasurer, and to the municipal council a notice in writing, served upon the clerks of each branch thereof, and shall post the same in his or their office, from which time no further contracts shall be made or expenditures authorized or allowed, until such time has elapsed as will allow of further proceedings consistent with the provisions of the law.

Penalty for noncompliance with law.

§ 104. Any failure or neglect on the part of any of said officers or boards, or members of boards, to comply with any of the provisions of the preceding sections, shall render such officer, and each member of such board consenting thereto, liable personally and upon his official bond to any contractor or other person suffering damage by said failure or neglect; but such contractor or person damaged shall have no remedy against such city, or city and county, and the said officers or members of boards authorizing or aiding to authorize, auditing, or allowing any claim or demand upon or against said treasury, or any fund thereof, in contravention thereof, shall be liable in person and on his official bond to the contractor or person damaged, to the extent of his loss. The treasurer paying any claim authorized, allowed, or audited in contravention of the provisions thereof shall be liable on his official bond to refund the same to such city, or city and county, and it shall be the duty of the city, or city and county, attorney to sue for the same, if necessary.

Exception to operation of one-twelfth law.

§ 105. In case of any great public calamity or danger, such as earthquakes, conflagrations, pestilence, invasion, insurrection, or other great and unforeseen emergency, the provisions of the three preceding sections may be temporarily suspended, as to any lawful contract, authorization, or expenditure necessary to avert, mitigate, or relieve such evil; provided, that such expenditure, contract, or authorization shall be passed by the unanimous vote of all members elected or appointed to each house of the municipal council, and entered in the journals of each house, and the character and fact of such emergency must be recited in the ordinance authorizing such action; and such ordinance must be approved by the mayor, auditor, and treasurer of such city, or city and county.

Printing and advertising must be let to lowest bidder.

§ 106. All city, or city and county, official printing and advertising, for all departments thereof, excepting that of the sheriff's office, shall be let by the municipal council, during the month of January of each year, to the lowest responsible bidder, printing, publishing, and proposing to advertise in a newspaper of general circulation in such city, or city and county, and that has been in existence at the time of the letting of said contract at least three years; and provided, that any such newspaper may bid for the whole or any part of the advertising. The bids shall be opened by the board of aldermen, and all bidders may be present thereat. No bid shall be considered in which there shall be any erasure or interlineation. All such contracts, when awarded, shall be entered into and bonds taken by the clerk of the board of aldermen, in such sum and containing such conditions as the board of aldermen shall provide.

Contracts, how made.

§ 107. All contracts relating to city, or city and county, affairs shall be in writing, signed and executed in the name of the city, or city and county, by the officer authorized to make the same; and in cases not otherwise directed by the law, such contracts shall be made and entered into by the mayor. All contracts shall be countersigned by the auditor, and registered, by number and dates, in his office, in a book to be kept by him for that purpose. In all cases of letting contracts to bidders, when for any reason a contract fails of completion, new bids shall be invited, opened, and awarded, as provided in this chapter in the first instance, until a sufficient contract is executed. In all cases when the board of aldermen have reason to think the prices too high, or that bidders have combined together to prevent genuine bidding, or for any reason that the public interests will be subserved, it may in its discretion, reject any and all bids, and cause the same to be readvertised. The provisions of this act, as to bids and contracts, shall be enforced by the municipal council by appropriate ordinances as to all bids, proposals, and contracts with such city, or city and county, or any department thereof.

Article IV.—Executive Department.**Qualifications and duties of mayor.**

§ 118. The mayor shall be the chief executive officer; shall be a qualified voter, at least twenty-five years of age, and shall have been a citizen of the United States and of this state, and a resident in such city, or city and county, for three years. It shall be his duty vigilantly to observe the official conduct of all public officers of such city, or city and county, and to take note of the fidelity and exactitude, or the want thereof, with which they execute their duties and obligations, especially in the collection, custody, administration, and disbursement of the public funds and property, for which purpose the books, records, and official papers of all boards, officers, and magistrates of such city, or city and county, shall at all times be open to his inspection. He shall take especial care to see that the books and records of all such officers are kept in legal and proper form; and any official defalcation, or willful neglect of duty, or official misconduct, which he may have discovered, or which shall have been reported to him, shall at the earliest opportunity be laid before the municipal council, and before the grand jury, in order that the public interests shall be protected and the officer in default be proceeded against according to law. He shall, from time to time, give the municipal council information relative to the state of such city, or city and county, and shall recommend to their consideration such measures as he may deem expedient in the interests of the city. He shall take care that the laws of the state and the ordinances of the municipal council are enforced.

Mayor pro tempore.

§ 119. Whenever and so long as the mayor, from any cause, is unable to perform his official duties, the board of aldermen shall designate one of their number as mayor pro tempore, who shall perform the same.

Special sessions of council.

§ 120. The mayor may, by due notice, call special sessions of the municipal council, and shall specially state to them, when assembled, the objects for which they have been specially convened, and their actions shall be confined to such objects.

Duties of auditor.

§ 121. The auditor shall be the head of the finance department of such city, or city and county, and as such required to be constantly acquainted with the exact condition of the treasury, and every lawful demand upon it. He shall keep a public office, and give his personal attendance there daily during the office hours fixed in this chapter, and shall not follow or engage in any other occupation or calling while he holds said office. If he absents himself from his office during such office hours, except on indispensable official business or urgent necessity, he shall lose his salary for the day; and it shall be a part of his official duty to keep account of the times and occasions when he shall be so absent from duty. He shall be the general accountant of such city, or city and

county, and as such it shall be his duty to receive and preserve in his office all accounts, books, vouchers, documents, and papers relating to the accounts or contracts of such city, or city and county; its debts, revenues, and other fiscal affairs, and to adopt a proper mode and manner of double-entry bookkeeping, and keep the accounts of such city, or city and county, general and special, in a systematic and orderly manner. He shall state and render all accounts filed or kept in his office between the city and other persons or body corporate, except when otherwise provided by law or ordinance. He shall have power to administer oaths, and shall require settlements of accounts to be verified by affidavit whenever he thinks proper. He shall be responsible for all acts of his employees.

Duties of treasurer.

§ 122. The treasurer of such city, or city and county, shall receive and safely keep in a secure fire-proof vault, to be prepared for that purpose, all moneys belonging to or which shall be paid into the treasury, and shall not loan, use, or deposit the same, or any part thereof, to or with any banker or other person, nor pay out any part of said moneys except on demand authorized by this chapter, and after they have been duly audited. He shall keep the key of said vault, and not suffer the same to be opened except in his presence. At the closing up of the same each day he shall take an account and enter in the proper book the exact amount of money on hand, and at the end of every month he shall make and publish a statement of all receipts into and payments from the treasury, and on what account. If he violates any of the provisions of this section he shall be considered a defaulter, and shall be deemed guilty of a misdemeanor in office, and be liable to removal, and shall be proceeded against accordingly. If he loan or deposit said moneys, or any part thereof, contrary to the provisions of this section, or apply the same to his own use, or the use of any other person, in any manner whatsoever, or suffer the same to go out of his personal custody, except in payment of audited demands upon the treasury, he shall be deemed guilty of a felony, and, on conviction thereof, shall suffer imprisonment in the state prison for a period not less than three months nor more than ten years.

Duties of treasurer.

§ 123. The treasurer shall keep the money belonging to each fund separate and distinct, and shall in no case pay demands chargeable against one fund out of moneys belonging to another, except as otherwise provided in this chapter, without an express ordinance of the municipal council, which can only be made during or after the end of the third quarter of the fiscal year, by a vote of two thirds of each house. The said treasurer shall give his personal attendance at his public office during the office hours fixed by this chapter, and if he be absent himself therefrom, except on account of sickness or urgent necessity during such office hours, he shall lose his salary for the entire day on which he was absent.

Duties of county clerk.

§ 124. The county clerk of such city and county shall take charge of and safely keep, or dispose of according to law, all books, papers, and records which are or may be filed or deposited in his office, and of all the courts of which he is clerk; and he shall not allow any paper, files, or records to leave his custody, except when required by the judges of the courts, to be used by them or any of them.

Original papers not to be produced in court except on subpoena.

§ 125. No judge or officer of any court shall make any order for the delivery by the county clerk of such city and county, of any paper, files, or records in his custody, except bills of exceptions and statements on motion for a new trial; nor shall the courts, or judges thereof, have any power to make orders for the delivery of any certificate of incorporation, bonds, or other papers filed with the said county clerk. Whenever any of said papers are required for evidence in any of the courts within such city and county, the county clerk, or his deputies, shall produce the same under subpoena or order of the court, or furnish certified copies of the same on application, on payment to said clerk for said copy at the rate of ten cents per folio for each hundred words, which shall be paid into the city and county treasury by him.

County clerk not to attend as witness outside of city, unless his expenses are paid.

§ 126. Neither the county clerk nor any of his deputies shall be required to attend as witnesses, in their official capacities, outside of such city and county, except in criminal cases, unless his expenses be paid at the rate of ten cents per mile to and from the place where he may be required, and three dollars a day for each day's attendance. A sufficient number of deputies shall be assigned by him as courtroom clerks to the various courts of which he is the official clerk, while such courts are in session, and to do duty in the office when such courts are not in session. He shall transfer such deputies to duty in court, or at his office, as the exigency of the service may require, so as to efficiently perform the work in the most economical manner possible.

Fee for law library.

§ 127. On the commencement in or removal to the superior court of such city and county of any civil action or proceeding, he shall collect from the plaintiff, or party instituting such proceeding or filing the first papers therein, the sum of one dollar, and pay over the same at the end of each month to the treasurer of the law library provided for in this chapter; and the payment of the sum of one dollar shall be a condition precedent to the commencement of such action or proceeding, for which sum so required to be collected he and his sureties shall be responsible on his official bond.

Tax collector to be charged with moneys, etc., coming into his hands.

§ 128. The tax collector, upon the final settlement to be made by him as such tax collector, according to the requirements of the law, shall be

charged with, and shall pay into the hands of the treasurer, the full amount of all taxes paid to him under protest or otherwise, or by him collected and not previously paid over, without any deduction of commissions, fees, or otherwise; he shall also be charged with and be deemed debtor to the treasury for the full amount of all taxes due upon the delinquent list delivered to him for collection, unless it be made to appear that it was out of his power to collect the same by levy and sale of any property liable to be seized and sold therefor. If the impossibility to collect any portion of such delinquent taxes have resulted from such negligence or defects in such assessment caused by the willful misconduct of the assessor, then the assessor whose duty it was to make the assessment shall be liable and be deemed debtor to the treasury for the amount remaining uncollected for that cause.

Election of assessor and his duties.

§ 129. There shall be elected by the qualified voters of such city, or city and county, at the general state election, an assessor, who shall take office on the first Monday after the first day of January next following his election, and hold for the term of four years, and until his successor is elected and qualified. It shall be his duty to assess all taxable property within such city, or city and county.

Duty of sheriff.

§ 130. The sheriff shall attend in person, or by deputy, all the courts in and for such city and county, except the police courts. He shall obey the lawful orders and directions of such courts, and in all other respects conform to the laws regulating sheriffs in this state.

Duties of recorder.

§ 131. The recorder of such city and county shall have the custody of all books, records, maps, and papers deposited in his office. He, or his chief deputy, when any papers are presented for registration, or to be copied, shall write on the margin of each paper so presented the number of folios paid for, and shall, in his monthly return to the treasurer, certify under oath the number of folios copied or registered by each deputy or copyist appointed by him; and such certificate of the recorder or his chief deputy shall be conclusive evidence to authorize the auditor to audit such certified accounts of such deputies or copyists monthly. He shall appoint as many copyists as he shall deem necessary to the proper discharge of the duties of his office, who shall be paid at the rate of twelve cents per folio of one hundred words for all matters registered or copied by them respectively.

Duties of district attorney.

§ 132. The district attorney is the public prosecutor, and shall be an attorney of the supreme court, and shall attend the superior court of this state, in and for such city and county, and such other courts as may be hereafter established in and for the same, and conduct therein, on behalf of the people, all prosecutions for public offenses. He shall perform such other duties as are prescribed by law.

Duties of city and county attorney.

§ 133. The city, or city and county, attorney shall be an attorney of the supreme court, and shall prosecute and defend all suits and actions at law and in equity, and conduct all legal proceedings, in the courts and elsewhere, necessary to preserve and protect such city's, or city and county's, rights, whether such suits or proceedings be conducted in the name of such city, or city and county, or in the name of others. He shall give legal advice to the city government, and all the officers, boards, and departments thereof, when required so to do, and perform such other duties as such attorney as the municipal council shall from time to time prescribe. He shall keep in his office well-bound books of registry, in which shall be entered and kept a register of all actions, suits, and proceedings in which such city, or city and county, is interested. Each outgoing city, or city and county, attorney shall deliver such books and all other records, law reports, quarterly reports from municipal boards and officers, documents, statutes, papers, furniture, and property, in his possession, to his successor in office, who shall give him duplicate receipts therefor, one to be filed in the office of the auditor and one to be retained by the outgoing city, or city and county, attorney.

Public administrator.

§ 134. The public administrator of such city, or city and county, shall be subject to the orders of the superior court in and for such city, or city and county, and shall perform all the duties prescribed by law.

Duties of coroner.

§ 135. The coroner of such city, or city and county, in addition to the duties imposed by law upon every coroner, shall keep a record of all inquests held by him, with a copy of all testimony and the inquisition of the jurors in full; and in case of loss of the original records, the same shall be admissible in evidence with like effect as the original would have been. He may appoint such deputies, and a messenger or messengers, as are allowed in this act, or as may be hereafter allowed by the municipal council of such city, or city and county. He shall receive no fees for any services rendered by him.

Duties of superintendent of streets.

§ 136. The superintendent of streets shall keep a public office, in some convenient place, to be designated by the municipal council. His office shall be kept open as in this chapter provided. He shall not, during his continuance in office, follow any other profession or calling, but shall be required to devote himself exclusively to the duties of his said office. He shall have under his special charge the construction, reconstruction, repairing, and cleansing of all public sewers, man-holes, sinks, drains, cesspools, and of the public streets, highways, alleys, places, and squares, excepting the parks. It shall be his duty to see that the laws, orders, and regulations relative to the public streets and highways, alleys, places, and squares are carried into execution, and that the penalties therefor are rigidly enforced, as may be prescribed by the municipal

council. He shall keep himself informed of the condition of all public streets, highways, alleys, places, and squares; and should he fail to see that the laws, ordinances, and regulations relating to the public streets, highways, alleys, places, and squares are carried into execution, after notice from any citizen of a violation thereof, such superintendent and his sureties shall be liable upon his official bond to any person injured in person or property by such official neglect.

Duties of surveyor.

§ 137. The city, or city and county, surveyor shall be engineer-in-chief of such city, or city and county, and of the sewerage system; shall make all necessary plans, surveys, maps, and drawings, and other necessary things, and keep the same in his office; and all such maps, plans, machinery, and drawings shall be the property of such city, or city and county, and remain in the office, and be transferred by the outgoing to the incoming officer. He shall do all necessary surveying and engineering for the streets, alleys, highways, and squares, at the request of the municipal council, or of any committee appointed by either branch of the same, and all or any other surveying and engineer[ing] work that such city, or city and county, may require, and of the public parks, at the request of the park commissioners.

Appointment of collector of licenses and his duties.

§ 138. Within twenty days after their first meeting, the municipal council of such city, or city and county shall appoint a suitable person as collector of licenses of such city, or city and county, who shall hold office for two years from and after his appointment, and until his successor shall be appointed and qualified. In case of a vacancy occurring by death or otherwise in the office of the collector of licenses of such city, or city and county, holding his office under the provisions of this chapter, the same shall be filled for the remainder of the unexpired term by appointment of the board of aldermen; and in case of the inability of said collector of licenses to act, his place shall, in the same manner, be temporarily filled until such disability is removed. The collector of licenses and his deputies are hereby authorized, empowered, and required to collect all the municipal licenses now required to be collected, or which shall hereafter be required to be collected by them, or either of them; and it shall be the duty of said collector of licenses, and his deputies, or assistant collectors, to attend to the collection of licenses, and examine all places of business and persons liable to pay licenses, and to see that licenses are taken out and paid for. They shall each have and exercise, in the performance of their official duties, the same powers as police officers in serving process or summons, and in making arrests; also shall each have and exercise the power to administer such oaths and affirmations as shall be necessary in the discharge and exercise of their official duties; and they, and each of them, are hereby empowered to enter any place of business for which a license by law is provided and required, free of charge, at their pleasure, and to demand the exhibition of any license for the current time from any person, or firm, or

corporation engaged or employed in the transaction of any business for which a license is by law rendered necessary; and if such person, or firm, or corporation, or either of them, shall be unable, or refuse, or neglect, or fail, to then and there exhibit such license, he, she, or they, as the case may be, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished accordingly.

License moneys.

§ 139. The collector of licenses shall daily pay to the treasurer of such city, or city and county, all moneys so collected for licenses sold, or by him received as fees; and shall, under oath, at least once in each calendar month, and oftener when required so to do by the auditor, make to the auditor a report of all such licenses sold and on hand, and of all amounts so paid to the city, or city and county, treasurer; shall at such time exhibit to the auditor all unsold licenses in his hands, and the treasurer's receipts for all moneys paid into the treasury; and all licenses so signed by the license collector, or deputy license collector, or either of them, shall be as valid as if signed by the city, or city and county, treasurer. All fees so paid to him shall be placed to the credit of the proper fund by the treasurer.

Department of police.

§ 140. The department of police of such city, or city and county, shall consist of:

Police commissioners, how appointed.

First—A board of police commissioners of such city, or city and county, consisting of five members, each of whom shall be a qualified voter, at least thirty years of age, and shall have been a citizen of the United States and of this state, and a resident of such city, or city and county, for five years next preceding his appointment, four of whom shall be appointed by the governor and chief justice of the supreme court of the state of California, within thirty days after the organization of such city, or city and county, under this act, and who shall hold office for the term of four years from and after the first Monday next succeeding the date of their appointment, and until their successors are appointed and qualified; and in the month next preceding the expiration of the said term, and every four years thereafter, the said governor and chief justice of the supreme court shall appoint their successors, who shall hold office for the term of four years from and after the first Monday next succeeding the date of their appointment; but in making such appointments, the said governor and chief justice shall elect two qualified persons from each of the two dominant national political parties. Vacancies that may occur in the office of any of the members so appointed shall be filled by appointment by said governor and chief justice, of some suitable person of the same political party as that to which the last incumbent belonged, and for the remainder of the vacant term only. The four members appointed, as hereinbefore provided, shall meet in such city, or city and county, on the first Monday next succeeding the date of

their appointment, and shall forthwith organize by electing one of their number president, and shall appoint the other member of said board, who shall be the chief of police of such city, or city and county. Every member of said board shall, before he enters upon the duties of his office, take and subscribe the following oath or affirmation: "I do solemnly swear (or affirm, as the case may be), that I will support the constitution of the United States and the constitution of the state of California; that I will faithfully discharge the duties of police commissioner according to the best of my ability; and that in the discharge of my duties I will make no appointment to, or removal from the police force for political or partisan reasons; and that I will, to the best of my ability, discharge the duties of said office impartially and uninfluenced by political considerations, or any consideration other than that of the public good." Every member of said board who shall absent himself from such city, or city and county, for the continuous period of sixty days, shall, by force thereof, cease to be a police commissioner, and his office shall become vacant. No member of said board shall be eligible to any other office during his incumbency of the office of police commissioner. No member of said board shall, during his term of office, be a member of any convention, the purpose of which is to nominate candidates for office, nor act as a judge, inspector, clerk, or officer of any election, or primary election, or take part in any election except to deposit his vote; nor shall any member of said board, directly or indirectly, influence, or attempt to influence or control, the political action of any member of the police force of such city, or city and county, or any employee of said department; nor shall any member of said board collect, or suffer to be collected, from any member or employee of said department, any assessment or contribution for political purposes. A violation of any of the provisions of this section shall be a misdemeanor, and shall be cause for the immediate removal from office of the person guilty of such violation. The said board shall hold sessions at least once a month in the office of chief of police, or in such other convenient place as the municipal council of such city, or city and county, shall designate, or, in case of emergency, at such place as it shall select, and the clerk of the chief of police, hereinafter provided for, shall act as clerk of said board. Every member of said board, and the clerk of said board, shall have power to administer oaths in all matters pertinent to the business of their respective offices, and in all investigations pending before said board, or any member thereof. The said board shall keep a record of its proceedings. The said board shall have power:

Powers of board.

1. To appoint, suspend, or remove any person from the police force of such city, or city and county; provided, however, that the chief of police shall only be removable in the manner provided by law for the removal of other municipal officers.

Prescribe rules.

2. To prescribe all needful rules and regulations for the control, government, and discipline of said police force, and from time to time to

alter or repeal the same, and prescribe penalties for the violation of any of them.

Determine complaints.

3. To hear and summarily determine all complaints of misconduct, inefficiency, or other charge against any member of said police force, and to take such action thereon as shall be conducive to the maintenance of the discipline and efficiency of the same.

Grant permits.

4. To grant permits to all persons desiring to engage in the retail liquor business in such city, or city and county, and to revoke any such permit whenever it shall be made to appear to said board that the retail liquor business of the person to whom such permit was given is conducted in a disorderly or improper manner, or whenever it shall be made to appear that the person to whom such permit was granted has, after the grant of such permit, been convicted in the police or other court of such city, or city and county, of disorderly or improper conduct, or of the commission of any criminal offense upon the premises whereon such retail liquor business is conducted; provided, however, that whenever said board refuses to grant such permit, or proposes to revoke such permit, the person who is refused such permit or whose permit is proposed to be revoked, shall be entitled to be heard before said board in person or through counsel, and to have free of charge all reasonable facilities for the full, fair, and impartial hearing on the merits of his application or opposition. In such permit shall be distinctly stated and described the name of the person to whom the same is given, and the premises on which such retail business is proposed to be carried on.

Appoint special officers.

5. Upon the petition of any person, firm, or corporation, to appoint a special officer to do special service to be paid for by such person, firm, or corporation, specifying the boundary or locality at or within which he is to act as such special officer, which boundary or locality shall be described in his warrant of appointment; provided, that no special officer shall be appointed to act in any part of such city, or city and county, commonly known as the Chinese quarter; and provided further, that all special officers shall report daily to the chief of police, and be subject to his orders in case of emergency; and in no event shall such officers be paid by such city, or city and county.

Badge.

6. To prescribe the badge of office and uniform to be worn by all members of the police force, and the badge of office to be worn by all special officers.

Contingent expenses.

7. To allow and order paid out of the police contingent fund, for contingent expenses, any and all orders signed by the chief of police; provided, that the aggregate of such orders shall not exceed the sum of

seven thousand two hundred dollars a year, which sum shall be set apart annually in the treasury of said city and county for this purpose.

Appoint substitutes.

8. To appoint substitutes, not to exceed four per cent of the police force, to serve under such regulations, and subject to such restrictions, as it may prescribe, and without pay from such city, or city and county.

Issue subpoenas, etc.

9. To issue subpoenas, tested in the name of its president, and to enforce obedience thereto, and punish disobedience thereof, in the same manner and to the like extent as the justices' court of such city, or city and county; and to exercise the same powers as the said justices' court in preserving decorum in all open sessions of said board, and to punish any contempt committed thereat.

Designate prisons.

10. To designate the prisons to be used for the reception of all persons arrested, convicted, or sentenced for public offenses in cases not provided for by law or by ordinance; to establish stations and station-houses, or substations and substation-houses, at its discretion, for the accommodation thereat of members of the police force, and as places of temporary detention for persons arrested.

Discretionary powers.

11. In its discretion, on conviction of a member of the force of any legal offense, or neglect of duty, or violation of the rules of the board, or neglect of or disobedience of orders, or incapacity, or absence without leave, or any conduct injurious to the public peace or welfare, or other breach of discipline, or immoral conduct, or any conduct unbecoming an officer, to punish the offending party by reprimand, forfeiting and withholding pay for a special time, suspension, or dismissal from the force; all such fines shall be immediately paid into the treasury to the credit of the police life and health insurance fund.

Warrant of appointment.

12. To issue to every member of the police force a proper warrant of appointment, signed by the president and countersigned by the clerk of the board, which warrant shall contain the date of his appointment and his rank.

Supplies.

13. To make requisition on the municipal council of such city, or city and county, for all supplies or necessities that may be required in the administration of the department; provided, that the aggregate amount of the same, exclusive of salaries, shall not, in any one fiscal year, exceed the sum of five thousand dollars.

Report, when made.

14. To annually, on or before the first day of August, report to the municipal council an estimate of the amount of money that will be re-

quired to pay all salaries of the department, and of the amount of money that will be required for the administration and support of the department in such year, specifying in detail the purposes and items for which the same will be required, with the estimated cost thereof, respectively.

Sale of property.

15. To provide for the custody, care, restitution, sale, time, place, and manner of sale of all property that may come into the possession of the property clerk hereinafter provided for.

Control police life insurance fund.

16. To control, care for, and manage the police life and health insurance fund hereinafter mentioned, which fund shall consist of the moneys retained from the monthly salaries of the members of the police force, fines collected from members of said force, and of such other moneys as may be contributed thereto by law, or ordinance, or by gift, devise, or bequest, and of all moneys to the credit of said fund at the time said board shall take office, and to invest the moneys of said fund in such of the following securities as shall seem most safe and profitable, viz.: the bonds of such city, or city and county, the bonds of the state of California, and the bonds of the United States of America. The moneys and securities shall be held by the treasurer of such city, or city and county, who shall have no power to deposit, pledge, or in any other way part with the same, except on the order of said board.

Payment to heirs out of fund.

17. To order paid, upon the death of any member of the police force, out of the police life and health insurance fund, to the heirs of such member, the sum of one thousand dollars.

Repayment to infirm officers.

18. To order paid, out of the police life and health insurance fund, to any police officer who shall resign by reason of bad health or bodily infirmity, the amount of the principal sum which such officer shall have contributed thereto.

Repayment to incompetent officers.

19. To order paid, out of the police life and health insurance fund, to any officer dismissed for mere incompetency, not coupled with any offense against the laws of this state, an amount not exceeding one-half of the principal which such officer may have contributed thereto; provided, that any officer dismissed for gross neglect or violation of duty, or upon conviction of any misdemeanor or felony, shall forfeit all claim upon said fund.

Registration of demands.

20. In case said police life and health insurance fund shall not be sufficient to pay the demands on it, to cause such demands to be registered, and to be paid in their order out of the fund as received.

Repayment of excess to certain officers.

21. When the police life and health insurance fund shall exceed the sum of fifty thousand dollars, to allow and order paid out of the same, to any officer who shall have been permanently disabled while in the discharge of his duty as such officer, such sum as in their judgment they shall deem proper, not to exceed one thousand dollars; but in no case shall said fund be reduced thereby below the sum of fifty thousand dollars. The president of said board shall receive a salary of three thousand dollars per annum. The other members of said board shall each receive a salary of one thousand two hundred dollars per annum, payable monthly, at the end of each and every month.

Chief of police, his powers and duties.

Second. A chief of police, appointed as hereinbefore provided, who shall have power to select and designate one police officer to serve as clerk to the chief of police; one police officer to serve as property clerk, who, before entering upon his duties, shall give bond, with good and sufficient sureties, in the sum of ten thousand dollars, to such city, or city and county, to be approved as in cases of other official bonds, which bond shall be filed with the auditor of such city, or city and county; twelve detective officers, and thirty sergeants of police. He shall have the sole and exclusive control, direction, and superintendence of the city prisons of such city, or city and county, and may detail to duty therein such number of officers as the exigencies shall require. In the suppression of any riot, public tumult, disturbances of the public peace, or organized resistance against the laws, or public authorities, in the lawful exercise of their functions, he shall have all the powers that now are or may be conferred upon sheriffs by the laws of this state; and his lawful orders shall be promptly executed by all police officers, and every citizen shall also lend him aid, when required, for the arrest of offenders and the maintenance of public order. In case of great public emergency or danger, he may appoint an additional number of policemen of approved character for honesty and sobriety, who shall have the same powers as other police officers, but who shall act without pay. In case of imminent danger of riot, or actual riot, or organized resistance to the laws, he shall have power, and it shall be his duty, if in his opinion, the organized police force be insufficient in number or unequal in strength to preserve the peace and maintain public order, to make his requisition on the governor, or in case of urgency on the nearest military commander in the national guard of California, for such military force as may be necessary for the occasion; and such military force shall be placed under his command until the restoration of order and tranquility, or until the governor declares such city, or city and county, in a state of insurrection, as provided by law. He shall keep a public office, which shall be open, and at which he, or in case of his necessary absence, a captain of police or sergeant of police by him designated for that purpose, who shall have, during such absence, the same powers as are conferred by law upon the chief of police, shall be in attendance at all

hours of the day and night. In case of his absence from his office, it shall be made known to the captain or sergeant of police in attendance where he can be found if needed. He shall designate one or more police officers to attend constantly upon the police court to carry on the business, and to execute the orders and process of said court. He shall command, supervise, and direct the police force; and shall observe, and cause to be observed and enforced, the laws and ordinances within such city, or city and county. He shall see that all lawful orders and process of the police court are promptly executed; and shall exercise such other powers connected with his office as may be prescribed by law, or by the rules and regulations adopted by the board of police commissioners. He shall acquaint himself with all the statutes and laws in force in this state defining public offenses and nuisances and regulating the criminal proceedings; and shall procure and keep in his office the statutes of this state and of the United States, and all elementary works on those subjects. He shall give information and advice touching said laws gratuitously to all police officers asking for it. He shall have power from time to time to dispose of such sum or sums for incidental expenses as in his judgment shall be for the best interest of such city, or city and county; provided, that the aggregate of all such sums shall not, in any one fiscal year, exceed the sum of seven thousand two hundred dollars; but all sums so disbursed or paid shall be subject to the approval of the said board. He may, for good cause, grant leave of absence for not more than thirty days to any member of the police force; but officers absent from the city within or without the state on official business shall not be deemed to be absentees. As chief of police, he shall hold office for the term of four years from his appointment, and shall receive a salary of four thousand dollars per annum, payable monthly, at the end of each and every month.

Captains of police, how appointed.

Third. Six captains of police, who shall be appointed by the board of police commissioners from the members of the police force, who shall be assigned to such duty, and who shall be subject to such rules and regulations, as the chief of police shall prescribe. They shall receive a salary of two hundred dollars per month each, payable monthly at the end of each and every month.

Police officers, their qualifications, powers, and duties.

Fourth. As many police officers, not exceeding five hundred, as the board of police commissioners may determine to be necessary, to be appointed by said board; but it shall be the duty of said board, on its first organization, to appoint as members of the police force the members of the police force, if any, then in service, unless such members be incompetent or incapable to serve. Every person applying for appointment to said police force, unless he be a member of the police force then existing in such city, or city and county, shall produce and file with the said board a certificate, signed by not less than twelve freeholders and qualified voters of the smallest political subdivision of

such city, or city and county, stating that they have been personally and well acquainted with the applicant for one year or more next preceding the application, and that the applicant is of good repute for honesty and sobriety, and they believe him to be, in all respects, competent and fit for the office. All such certificates shall be preserved in the office of said board, and shall not be returned to the applicant. Every appointee to said police force must be a citizen of the United States and of this state, able to read and write the English language, and a resident of such city, or city and county, at least five years previous to his appointment, except such member of said police force as may be in service at the time of the organization of said board; every appointee shall not be less than twenty-five nor more than forty years of age, and not less than five feet and seven inches in height, and shall, after his nomination, and before his appointment, pass a thorough examination by the surgeon of police, or by any physician appointed by said board, and be found on such examination to be sound in health, and to possess the physical qualifications required for recruits for the United States army. The police officers, in subjection to the rules and regulations of the said board, to the orders of the respective captains, and under the general direction of the chief of police, shall be prompt and vigilant in the detection of crime, the arrest of public offenders, the suppression of all riots, frays, duels, and disturbances of the public peace, the execution of process from the police court in causing the abatement of public nuisances, and the enforcement of the laws and regulations of the police. They shall, as soon as practicable, upon an arrest, under penalty of dismissal from the force, or of a fine of not more than one hundred dollars, or of both, at the discretion of the board, convey in person the offender before the nearest sitting magistrate. If the arrest is made during the hours that the magistrate does not regularly hold court, or if the magistrate is not holding court, such offender may be detained in a station-house until the next public sitting of the magistrate, and no longer, unless discharged on bail, according to law. No member of the police force shall be eligible to any other office while a member of such force, nor shall he take any part whatever in any convention held for the purposes of a political party; nor shall he be a member of any political club; nor shall he be allowed to interfere with politics on the day of election, or at any time while employed on said force, except to cast his vote. No member of said police force while on duty shall enter into any liquor-saloon, bar-room, or place where liquors are retailed, except when necessary in the discharge of his duties, on penalty of reprimand, fine, suspension, or removal from office. No member of the police force shall devote his time to any other profession or calling, become bail for any person charged with any offense whatever, solicit counsel or attorneys for prisoners, receive any present or reward for official services rendered, or to be rendered, unless with the knowledge and approbation of a majority of said board; such approbation to be given in writing and certified by the clerk of said board. Police officers who shall be selected to act as sergeants of police, and police officers who shall be selected to act as detective police offi-

cers, shall each receive a salary of one hundred and twenty-five dollars per month, payable monthly, at the end of each and every month. The police officer who shall be selected to act as clerk to the chief of police, and the police officer who shall be selected to act as property clerk, shall each receive a salary of one hundred and fifty dollars per month, payable monthly, at the end of each and every month. All other police officers shall each receive a salary of one hundred and two dollars per month, payable monthly, at the end of each and every month; provided, that the treasurer of such city, or city and county, is hereby authorized to deduct and retain from the salary of each member of said police force two dollars from every month's salary, to be paid into the fund of the police life and health insurance fund herein mentioned.

Surgeon of police, and his duties.

Fifth. A surgeon of police, whose duty it shall be to attend to all cases of accident or sickness at the several police stations, to attend all officers who may be taken sick or injured in the discharge of their duty, to examine all applicants for appointment on the police force, and to perform such other duties as the board of police commissioners may from time to time prescribe. He shall be appointed by the said board, and shall hold office during its pleasure, but he shall not be removed without just cause. He shall receive a salary of two hundred dollars per month, payable monthly, at the end of each and every month.

Fire commissioners, how appointed and term of office.

§ 141. There shall be a board of fire commissioners of such city, or city and county, consisting of five persons, possessing the same qualifications of eligibility as are herein prescribed for the members of the board of aldermen, who shall be appointed by the mayor, with the advice of the board of aldermen, and shall hold office for the term of four years from and after the time of their appointment, and no more than three of whom shall belong to the same national political party; provided, that the fire commissioners now acting as such in such city, or city and county, shall continue to hold their respective offices until the expiration of the term for which they may have been respectively elected or appointed.

Powers and duties of fire commissioners.

§ 142. The said board of fire commissioners shall supervise and control said fire department, its officers, members, and employees, subject to the laws governing the same, and shall see that the officers, members, and employees thereof faithfully discharge their duties, and that the laws, orders, and regulations relating thereto are carried into operation and effect. They shall not, nor shall either of them, or the chief engineer, or assistant chief engineer, or assistant engineers, of said fire department, be interested in any contracts pertaining in any manner to said fire department, or the sale, furnishing of apparatus, or supplies for the same; and all contracts in violation of this section are declared void, and any of said persons violating the provisions of this section

shall be deemed guilty of misdemeanor, and upon conviction, shall be punished accordingly. The municipal council of such city, or city and county, shall have power to contract and provide for all cisterns, hydrants, apparatus, horses, supplies, engine, hose and hook-and-ladder houses, and all alterations and repairs required; and said board of fire commissioners shall supervise all contracts awarded, and work done for the said fire department, and shall see that all contracts awarded and work done are faithfully performed. The said board of fire commissioners shall have power to prescribe the duties of the officers, members, and employees of said fire department, and to adopt rules and regulations for the management and discipline thereof; and a majority of them shall certify to the correctness of all claims and demands before the same shall be paid. And the municipal council is authorized and required to provide and furnish for the use of the board of fire commissioners a suitable room or rooms in some of the buildings of such city, or city and county, to serve as an office for their meetings and the transaction of business relating to said fire department, in which their clerk, janitor, and messenger shall be in attendance daily during office hours. The chief engineer, assistant chief engineer, and assistant engineer[s] of said department shall also make it their headquarters daily during office hours, when not otherwise engaged in official duties. And the said municipal council shall furnish the chief engineer, and also the assistant chief engineer and assistant engineers hereinafter mentioned, with a horse and buggy, and shall provide for keeping the same.

Officers of fire department.

§ 143. The officers of the fire department of such city, or city and county, shall be:

1. Five fire commissioners, to be appointed as aforesaid;
2. One chief engineer;
3. One assistant chief engineer;
4. Four assistant engineers;
5. One superintendent of steam fire-engines.

Members and employees of fire department.

§ 144. The members and employees of said fire department shall be:

1. One assistant superintendent of steam fire-engines;
2. One clerk and storekeeper for the corporation yard;
3. One corporation yard drayman;
4. One night watchman of corporation yard;
5. Two hydrantmen;
6. One veterinary surgeon;
7. One foreman of each company;
8. One engineer for each steam fire-engine;
9. One substitute engineer and machinist;
10. One driver for each company;
11. One fireman for each steam engine company;
12. One carpenter;
13. One tillerman for each hook-and-ladder company;

14. One steward for each hose company;
15. One janitor and messenger;
16. One clerk.

Paid members of department to give entire time to duties.

§ 145. All paid members of said fire department, except the veterinary surgeon, foreman, assistant foreman, company clerks, hosemen, hook-and-ladder-men, and stewards of volunteer companies shall give their undivided attention to their respective duties, but the foreman, assistant foreman, company clerks, hosemen, and hook-and-ladder-men, and stewards of volunteer companies, shall perform such duties as may be prescribed from time to time by said board of fire commissioners and ordered to be executed by the chief engineer.

Certain officers, how appointed.

§ 146. The chief engineer, the assistant chief engineer, the superintendent of steam fire-engines, the assistant engineers, the clerk, and all members and employees of the fire department, shall be appointed by the fire commissioners, and retain their positions during good behavior; and it shall be the duty of such fire commissioners, on their first organization under this act, to appoint as members thereof the officers and members of any fire department which shall be in service in any such city, or city and county, at the time of its organization under this act. No officer, member, or employee of said fire department shall be removed for political reasons.

Fire department to consist of what.

§ 147. The fire department of such city, or city and county, shall consist of such engine, hook-and-ladder, and hose companies as shall be recommended by the board of fire commissioners, and determined by the municipal council necessary to afford protection against fire; provided, that as an auxiliary thereto patent fire-extinguishers may also be purchased and employed; if, in the judgment of said board, deemed advisable; provided, that no hand-engine shall be purchased for the use of said department, but such as shall be in possession of such city, or city and county, prior to its organization under this act, may be used in such localities and under such regulations as the board of fire commissioners may prescribe. The companies of said department shall be organized as follows: Each steam fire-engine company shall consist of (1) one foreman, one (1) engineer, one (1) driver, one (1) fireman, and eight (8) hosemen; one (1) of whom shall act as assistant foreman, and one (1) as clerk. Each hook-and-ladder company shall consist of one (1) foreman, one (1) driver, one (1) tillerman, and twelve (12) hook-and-ladder-men; one (1) of whom shall act as assistant foreman, and one (1) as clerk. Each hose company shall consist of one (1) foreman, one (1) driver, and one (1) steward, and six (6) hosemen; one (1) of whom shall act as assistant foreman, and one (1) as clerk.

Duties of chief engineer.

§ 148. The chief engineer shall be the executive officer of said fire department, and it shall be his duty (and that of the assistant chief

engineer and assistant engineers) to see that the laws, orders, rules, and regulations concerning the same are carried into effect, and also to attend to such duties as fire wardens as may be required, and to see that all laws, orders, and regulations established in such city, or city and county, to secure protection against fire, are enforced. It shall also be the duty of the chief engineer to enforce the rules and regulations made from time to time to secure discipline in said fire department, and he shall have power to suspend any subordinate officer, member, or employee for a violation of the same, and shall forthwith report in writing, with his reasons therefor, to the board of fire commissioners for their action. He shall diligently observe the condition of the apparatus and workings of said department, and shall report in writing, at least once in each week, to said board of fire commissioners, upon the same, and make such recommendations and suggestions respecting it, and for securing its greater efficiency, as he may deem proper; and in the absence or inability of the chief engineer to act, the assistant chief engineer shall assume the duties of said office of chief engineer.

Clerk of board, his bond and duties.

§ 149. The person elected as clerk by said board of fire commissioners shall, before entering upon the discharge of his duties, execute a bond, with two or more sureties, in the penal sum of twelve thousand (\$12,000) dollars, for the faithful discharge of his duties, which bond shall be approved by said board of fire commissioners, and the mayor of such city, or city and county, and when so approved shall be filed in the office of the auditor. The amount of said bond may be increased from time to time, when directed by the board of fire commissioners, should it deem it necessary for the public good; said clerk shall attend daily, during office hours, at the office of the board of fire commissioners (which shall be the office of the chief engineer, assistant chief engineer, and assistant engineers); shall perform the duties of clerk to said board and chief engineer, and shall perform such other duties from time to time as said board may prescribe. The clerk and storekeeper for the corporation yard shall, before entering upon his duties, furnish a bond in the sum of ten thousand (\$10,000) dollars, to be approved in the same manner as the bond provided for in this section, to be given by the clerk of said board of fire commissioners, and filed with the auditor.

Property of department, how sold.

§ 150. The mayor of such city, or city and county, upon the recommendation of the board of fire commissioners, with the approval of the municipal council, is authorized to sell at private or public sale from time to time any or all of the engines, hose-carriages, engine-houses, lots on which such houses stand, or parts of lots (or to exchange any of said lots, when in their judgment demanded by the public good), or other property which shall not be required for the use of the department, and to execute, acknowledge, and deliver good and sufficient

deeds or bills of sale for the same, paying the proceeds of such sales into the county treasury, to the credit of the proper fund.

Appropriation for purchase of horses, supplies, etc.

§ 151. The municipal council of such city, or city and county, is hereby authorized and required to appropriate, allow, and order paid annually out of the general fund of such city, or city and county, the salaries hereinafter specified and allowed, and salaries at similar rates to the several officers and men of any additional companies created as aforesaid, and the municipal council is required to appropriate, allow, and order paid, out of the general fund, a sum not to exceed eighty thousand (\$80,000) dollars annually for running expenses, horse-feed, repairs to apparatus, and for the construction and erection of cisterns and hydrants, and for the erection and repair of buildings, and other expenses of the fire department. To appropriate a sum not to exceed thirty thousand (\$30,000) dollars for the purchase of horses and apparatus for the fire department.

Allowance to disabled member.

§ 152. Whenever a member of the paid fire department of such city, or city and county, shall become disabled by reason of injuries received at any fire, so as to be unable to perform his duties, the municipal council, upon the recommendation of the board of fire commissioners, is hereby authorized and empowered to allow said disabled man a sum not exceeding fifty (\$50) dollars per month for not to exceed three (3) months, payable out of the general fund of such city, or city and county, in the same manner and form as other payments are made out of said fund.

"Fireman's Charitable Fund."

§ 153. The municipal council shall provide, by ordinance, for the payment into a "Fireman's Charitable Fund" of such city, or city and county, of all moneys received for licenses for the storage, manufacture, or sale of gunpowder, blasting-powder, gun-cotton, fireworks, nitro-glycerine, dynamite, or any explosive oils or compounds, or as a municipal tax upon the same; also all fines collected in the police court, for violations of fire ordinances. Said fund shall be under the direction and control of and subject to such regulations as may be prescribed by the board of fire commissioners.

Assistant foreman and clerk.

§ 154. The chief engineer shall have power to appoint one member of each company to act as assistant foreman; also, one member to act as clerk; said clerk to receive five (\$5) dollars per month extra pay.

Organization of board and time of meeting.

§ 155. The fire commissioners shall organize said board immediately upon their appointment, and on the first Monday after the first day of January of each and every year thereafter, by selecting one of their number as president and they shall meet at least once in each month

publicly at their office to transact the business of said fire department; and, in addition to the stated meetings, they shall meet twice in each month for the purpose of investigating charges against officers, members, and employees of said department for violating any of the rules and regulations thereof; and shall hold such intermediate sessions as they shall deem necessary to the proper administration of the fire department. No person shall be eligible to any position in said department who is not a citizen of the United States, or a resident of such city, or city and county, at least two years, nor under twenty-one (21) years of age at the time of his appointment.

Investigations, how conducted.

§ 156. In all investigations for violation of the rules and regulations of the fire department, the president of the board of fire commissioners shall have power to issue subpoenas, and administer oaths, and compel the attendance of witnesses before him by attachment or otherwise. All subpoenas issued by him shall be in such form as he may prescribe, and shall be served by any police officer or by any peace officer of such city, or city and county. Any person who refuses to attend or testify in obedience to such subpoenas shall be deemed guilty of contempt, and be punished by him as in cases of contempt in justices' court in civil cases.

Members, how dismissed.

§ 157. No officer, member, or employee of the fire department shall be dismissed unless for cause, nor until after a trial. The accused shall be furnished with a written copy of the charges against him at least five (5) days previous to the day of trial, and he shall have an opportunity to examine witnesses in his behalf, and all witnesses shall be examined under oath, and all trials shall be public.

Workshop at corporation yard.

§ 158. The municipal council of such city and county is hereby authorized and empowered to establish and maintain at the corporation yard a workshop for making repairs and improvements upon the apparatus of the fire department, and such workshop and such repairs and improvements to be under the supervision of the board of fire commissioners, and the municipal council shall allow and order paid, out of the proper fund, all the expenses of such workshops, repairs, and improvements.

Restrictions on members.

§ 159. No member of said board of fire commissioners shall, during his term of office, be a member of any party convention, the purpose of which is to nominate candidates for political office, nor shall the officers, members, or employees of said fire department take any part whatever in any partisan convention, held for the purposes of a political party; nor shall any member of the said board of fire commissioners, directly or indirectly, attempt to control or influence the action of any member of said fire department, or any employee thereof, in any primary

or general election. No member of the fire department shall levy, collect, or pay any amount of money as an assessment or contribution for political purposes. Any violation of the foregoing provisions of this section shall be deemed a misdemeanor.

Salaries of officers of fire department.

§ 160. The salaries of the officers of the fire department shall be paid in monthly installments, and as follows:

1. The salary of the fire commissioners shall be one thousand two hundred dollars per annum;
2. The salary of the chief engineer shall be four thousand dollars per annum;
3. The salary of the assistant chief engineer shall be two thousand four hundred dollars per annum;
4. The salaries of the assistant engineers shall each be one thousand eight hundred dollars per annum;
5. The salary of the superintendent of steam fire-engines shall be two thousand four hundred dollars per annum.

Salaries of employees of fire department.

§ 161. The salaries of the members and employees of the fire department shall be paid in monthly installments, and as follows:

1. The salary of assistant superintendent of steam fire-engines shall be one thousand six hundred and eighty dollars per annum;
2. The salary of the clerk and storekeeper for the corporation yard shall be one thousand five hundred dollars per annum;
3. The salary of the corporation yard drayman shall be one thousand and eighty dollars per annum;
4. The salary of the night watchman for the corporation yard shall be nine hundred dollars per annum;
5. The salary of the two hydrantmen shall be one thousand and eighty dollars per annum each;
6. The salary of the veterinary surgeon shall be one thousand two hundred dollars per annum;
7. The salary of the foreman of each company shall be five hundred and forty dollars per annum;
8. The salary of the engineer for each steam fire-engine company shall be one thousand six hundred and eighty dollars per annum;
9. The salary of the substitute engineer and machinist shall be one thousand six hundred and eighty dollars per annum;
10. The salary of the driver for each company shall be one thousand and eighty dollars per annum;
11. The salary of the fireman for each steam fire company shall be one thousand and eighty dollars per annum;
12. The salary of the carpenter for said department shall be one thousand two hundred dollars per annum;
13. The salary of the tillerman for each hook-and-ladder company shall be one thousand and eighty dollars per annum;
14. The salary of the steward for each hose company shall be nine hundred and sixty dollars per annum;

15. The salary of each hoseman and each hook-and-ladder man shall be four hundred and eighty dollars per annum;

16. The salary of the janitor and messenger shall be one thousand two hundred dollars per annum;

17. The salary of the clerk of the board of fire commissioners shall be one thousand eight hundred dollars per annum.

Fire-alarm and police telegraph.

§ 162. There shall be maintained and provided for by the municipal council in such city, or city and county, a fire-alarm and police telegraph for municipal use, and the superintendent thereof shall be appointed by the board of fire commissioners, to serve during its pleasure, except that he shall not be removed for political causes, reasons, or purposes. Said superintendent is authorized to appoint the following officers and employees: One chief operator, three operators, one repairer, two assistant repairers, and one batteryman. It shall be the duty of such board, on their first organization under this act, to appoint as officers and employees thereof the officers and employees of any fire-alarm and police telegraph which shall be in service in such city, or city and county, at the time of its organization under this act.

Salaries of officers of fire-alarms, etc.

§ 163. The salaries of the officers of said fire-alarm and police telegraph shall be paid in monthly installments, and as follows:

1. The salary of the superintendent shall be two thousand four hundred dollars per annum;

2. The salary of the chief operator shall be one thousand eight hundred dollars per annum;

3. The salary of each of the three operators herein provided for shall be one thousand five hundred dollars per annum;

4. The salary of the repairer shall be one thousand two hundred dollars per annum;

5. The salary of each of the two assistant repairers herein provided for shall be one thousand and eighty dollars per annum;

6. The salary of the batteryman shall be nine hundred dollars per annum.

Appropriation.

§ 164. The municipal council shall appropriate such sum as may be necessary, not exceeding fifteen thousand dollars per annum, for the maintenance, repair, and extension of said telegraph, and to defray the cost of instruments and machinery therefor, and for such horses and vehicles as may be necessary for the use of said superintendent.

Board of health, how constituted.

§ 165. There shall be a board of health for such city, or city and county, which board shall consist of the mayor of the city and county, and five physicians in good standing, residing in such city, or city and county, who shall be appointed by the governor, and who shall hold office for the term of four years, and until their successors are appointed

and qualified; and in case any vacancy shall at any time occur in said board by removal, or resignation, or otherwise, the same shall be filled by appointment by the governor.

Meetings.

§ 166. The mayor of such city, or city and county, shall be ex-officio president of the board of health, and in his absence, at any meeting, the board may elect a chairman, who shall, for the time, be clothed with all the power of the president. Said board shall hold a regular meeting at least once in each month, and at other times, when called thereto by the president, or by a majority of the board.

Jurisdiction of board of health.

§ 167. Said board of health is hereby invested with general jurisdiction over all matters appertaining to the sanitary condition of such city, or city and county, and over all quarantine regulations and the enforcement thereof, and hospitals and almshouses, and all municipal institutions created and maintained for charitable purposes and not herein enumerated, within the corporate limits of such city, or city and county, and adopt such orders and regulations as may be necessary to the complete exercise of the powers hereinbefore enumerated, and may appoint or discharge such attendants and employees as may seem best to promote the public welfare.

Salary.

§ 168. The members of said board of health shall receive no salary.

Salaries of officers appointed by board of health.

§ 169. Said board of health shall have power to appoint the following officers and employees, who shall receive the salaries hereinafter provided, payable in monthly installments at the end of each month, viz:

1. One health officer, who shall be executive officer of said board, at a salary of two thousand four hundred dollars per annum;
2. One quarantine officer, at a salary of one thousand eight hundred dollars per annum;
3. One secretary, at a salary of two thousand four hundred dollars per annum;
4. Six health inspectors and one market inspector, at a salary of one thousand two hundred dollars per annum each; one messenger at nine hundred dollars per annum;
5. One superintendent of the city, or city and county, hospital, who shall be a physician and graduate of some medical college in good standing, at a salary of two thousand four hundred dollars per annum;
6. One resident hospital physician, at a salary of one thousand five hundred dollars per annum;
7. One hospital steward, at a salary of one thousand two hundred dollars per annum;
8. One hospital matron, at a salary of nine hundred dollars per annum;
9. One hospital apothecary, at a salary of one thousand two hundred dollars per annum;

10. One hospital engineer, at a salary of nine hundred dollars per annum;

11. Two physicians and two surgeons, to be selected from the faculty of the medical department of the University of California, and two physicians and two surgeons to be selected from the faculty of the Pacific Medical College, at such salary as the board of health may designate, not to exceed one thousand two hundred dollars each per annum, as visiting physicians and surgeons to the city, or city and county hospital;

12. One almshouse superintendent, at a salary of two thousand four hundred dollars per annum;

13. One resident almshouse physician, at a salary of one thousand five hundred dollars per annum;

14. One almshouse matron, at a salary of seven hundred and twenty dollars per annum;

15. One city physician, at a salary not to exceed one thousand eight hundred dollars per annum;

16. One assistant city physician for the industrial school and house of correction, at a salary of one thousand two hundred dollars per annum;

17. One first cook, at a salary of sixty dollars per month;

18. One second cook, at a salary of thirty-five dollars per month;

19. One third cook, at a salary of thirty dollars per month;

20. One baker, at a salary of seventy-five dollars per month;

21. One clerk, at a salary of forty dollars per month;

22. One interpreter, at a salary of forty dollars per month;

23. One ambulance driver, at a salary of forty dollars per month;

24. Sixteen nurses, at a salary of thirty-five dollars each.

Appointing power.

§ 170. The appointing power of all and every of the aforesaid officers and employees is vested solely in said board of health, and said board shall have power to prescribe the duties of every and all of said officers and employees, and to remove the same at pleasure; and said board of health is hereby empowered to employ such additional employees as may be necessary to carry out the purposes of this act, at such compensations as said board of health may fix.

Salaries, how paid.

§ 171. The salaries of the officers and employees of said board of health, and all other expenses legally incurred by said board under the provisions of this chapter, shall be payable out of the general fund of the treasury of such city, or city and county; and the auditor of such city, or city and county, is hereby directed to audit all such demands, and the treasurer of such city, or city and county, is hereby directed to pay the same out of said general fund. The said board of health shall, annually, upon the third Monday of April of each year, transmit, in writing, to the municipal council of such city, or city and county, an estimate of the amount of money necessary to defray all of the expenditures of said board of health for the next fiscal year; and the board of health shall not expend, in any one fiscal year, an amount exceeding the

amount of such estimate so transmitted by said board of health for such fiscal year, allowed upon such estimate by the municipal council, except in case of an epidemic of any contagious disease, when such board of health is hereby authorized to increase such expense as may be deemed necessary for the public safety; and all such expenses shall be payable out of the general fund of such city, or city and county, at the same time and in the same manner provided for other expenses of said board. Nothing in this act shall be construed to authorize said board of health to contract for or purchase supplies for any of the charitable institutions placed under its control by this chapter. All contracts for any of the work authorized by this chapter to be caused to be performed by said board of health shall be awarded by said board to the lowest responsible bidder, after notice, for not less than five days, in two daily newspapers published in such city, or city and county, under such regulations and requirements as said board of health may adopt.

Restrictions on officers.

§ 172. It shall not be lawful for any superintendent, or other principal officer in charge of any almshouse in such city, or city and county, to have or receive any perquisites, or to derive any income or revenue therefrom, either directly or indirectly, other than the salary allowed to him by the board of health; nor shall it be allowable for any subordinate officer or employee to have or receive any perquisites, either directly or indirectly; and it shall be the duty of the board of health to remove any such superintendent, or other principal officer, or any subordinate officer or employee who violates any provision of this section. All fees authorized by any of the provisions of this chapter, to be collected by any officer or employee of the board of health, shall be immediately paid by such officer or employee to the secretary of said board of health, who shall, upon the first Monday of each month, pay the same into the treasury of such city, or city and county, to be credited to the proper fund.

Report of shipmasters of contagious diseases.

§ 173. Shipmasters bringing vessels into the harbor of any such city, or city and county, and all masters, owners, or consignees having vessels in such harbor, which have on board any cases of Asiatic cholera, small-pox, yellow, typhus, ship-fever, or any other contagious disease, must report the same in writing, to the quarantine officer before landing any passengers, casting anchor, or coming to any wharf, or as soon thereafter as they, or either of them, become aware of the existence of either of these diseases on board of their vessel.

Restrictions on shipmasters, etc.

§ 174. No captain or other officer in command of any vessel sailing under a register, arriving at the port of any such city, or city and county, nor any owner, consignee, agent, or other person having charge of such vessel, must, under a penalty of not less than one hundred dollars nor more than one thousand dollars, land, or permit to be landed, any freight, passengers, or other persons from such vessels, until he has re-

ported to the quarantine officer, presented his bill of health, and received a permit from that officer to land freight, passengers, and other persons.

Duty of pilot.

§ 175. Every pilot who conducts into the port of any such city, or city and county, any vessel subject to quarantine, or examination by the quarantine officer, must:

1. Bring the vessel no nearer such city, or city and county, than is allowed by law;
2. Prevent any person from leaving such vessel, and any communication being made with the vessel under his charge, until the quarantine officer has boarded her and given the necessary orders and directions;
3. Be vigilant in preventing any violation of the quarantine laws, and report, without delay, all such violations that come to his knowledge, to the quarantine officer;
4. Present the master of the vessel with a printed copy of the quarantine laws, unless he has one;
5. If the vessel is subject to quarantine, by reason of infection, place at the masthead a small yellow flag.

Duty of master of vessel.

§ 176. Every master of a vessel subject to quarantine, or visitation by the quarantine officer, arriving in the port of any such city, or city and county, who refuses or neglects either:

1. To proceed with and anchor his vessel at the place assigned for quarantine, when legally directed so to do; or,
 2. To submit his vessel, cargo, and passengers to the quarantine officers, their inspection, examination, and direction, and furnish all necessary information to enable that officer to determine to what quarantine or other regulations they might respectively be subject; or,
 3. To report all cases of disease and of death occurring on his vessel, and to comply with all the sanitary regulations of such port or harbor;
- Is liable in the sum of five hundred dollars for every such neglect or refusal.

Master of infected vessel must report.

§ 177. All vessels arriving off the port of any such city, or city and county, from ports which have been legally declared infected ports, and all vessels arriving from ports where there is prevailing, at the time of their departure, any contagious, infectious, or pestilential diseases, or vessels with decaying cargoes, or which have usually foul or offensive holds, are subject to quarantine, and must be by the master, owner, pilot, or consignee reported to the quarantine officer without delay. No such vessel must pass within the bounds prohibited them by the board of health, until the quarantine officer has boarded her and given the order required by law.

Duty of quarantine officer.

§ 178. The quarantine officer must board every vessel subject to quarantine or visitation by him, immediately on her arrival. make such ex-

aminations and inspection of vessels, books, papers, or cargo, or of persons on board, under oath, as he may judge expedient, and determine whether the vessel should be ordered to quarantine, and if so, the period of quarantine.

Masters of certain vessels not to permit landing until he receive permit.

§ 179. No captain, or other officer, in command of any passenger-carrying vessel of more than one hundred and fifty tons burden, nor of any vessel of more than one hundred and fifty tons burden having passengers on board, nor any consignee, owner, agent, or other persons having charge of such vessel or vessels, must, under a penalty of not less than one hundred dollars nor more than one thousand dollars, land, or permit to be landed, any passenger from the vessel until he has presented his bill of health to the quarantine officer and received a permit from that officer to land such passengers, except in such cases as the quarantine officer deems it safe to give the permit before seeing the bill of health.

Fees.

§ 180. The following fees shall be collected by the quarantine officer for giving a permit to land freight or passengers, or both: From any sailing vessel of less than five hundred tons burden, from any port out of this state, two dollars and fifty cents; five hundred and under one thousand tons burden, five dollars; each additional one thousand tons burden, or fraction thereof, an additional two dollars and fifty cents; for steam vessels, propelled in whole or in part by steam, of one thousand tons burden or less, five dollars, and two dollars and fifty cents additional for each additional one thousand tons burden or fraction thereof. But vessels not propelled in whole or in part by steam, sailing to and from any port or ports of the Pacific states of the United States or territories, and whaling vessels entering the harbor of any such city and county, are excepted from the provisions of this section.

Duty of board of health.

§ 181. The board of health may enforce compulsory vaccination on passengers or [on] variola-infected ships, or coming from ports infected with the same.

Same.

§ 182. The board of health shall establish quarantine grounds at such points and places as in its judgment may best conduce to public safety; may provide suitable hospitals whenever the same are required for the public safety, and furnish and supply the same with nurses and attaches, and remove thereto all persons afflicted with cholera, smallpox, yellow, typhus, ship-fever, or other contagious diseases; provided, said quarantine grounds and hospitals shall not be established within one mile of the mainland on the north side of the bay of San Francisco.

Duty of board of health.

§ 183. The board of health must cause to be kept a record of all births, deaths, and interments occurring in such city, or city and county,

coming under the provisions of this chapter. Such records, when filed, must be deposited in the office of the city, or city and county, recorder, and produced when required for public inspection.

Duty of physicians and midwives.

§ 184. Physicians and midwives must, on or before the fourth day of each month, make a return to the health officer of all births, deaths, and the number of stillborn children occurring in their practice during the preceding month. In the absence of such attendants, the parents must make such report within thirty days after the birth of the child. Such returns must be made in accordance with rules adopted by, and upon blanks furnished by, the board of health.

Human bodies not to be buried without permit.

§ 185. No person shall deposit in any cemetery, or inter in any such city, or city and county, any human body, without first having obtained and filed with the health officer a certificate, signed by a physician or midwife, or coroner, setting forth as near as possible the name, age, color, sex, place of birth, occupation, date, locality, and the cause of death of deceased, and obtain from such health officer a permit. The physicians, when death occurs in their practice, must give the certificate herein mentioned. It shall be the duty of the said board of health to see that the dead body of a human being is not allowed to remain in any public receiving vault for a longer period than five days. At the expiration of that time it shall cause the body to be buried, or to be placed in a vault or niche, constituted of brick, stone, or iron, and hermetically sealed. It shall also be the duty of said boards to require all persons having in charge the digging of graves, and the burial of the dead, to see that the body of no human being who has reached ten years of age shall be interred in a grave less than six feet deep, or if under the age of ten years, the grave to be not less than five feet deep. The board of health shall have entire charge of all cemeteries belonging to such city, or city and county, and may employ a superintendent thereof, at a salary not to exceed seventy-five dollars per month, the same to be paid out of the general fund as the salaries of the other employees are paid.

Duty of superintendent of cemeteries.

§ 186. Superintendents of all cemeteries in any such city, or city and county, must return to the health officer, on each Monday, the names of all persons interred or deposited within their respective cemeteries during the preceding week, and no superintendent of a cemetery, or any other person, can remove, or cause to be removed, or cause to be disinterred, any human body or remains that have been deposited in a cemetery, without a permit therefor from the health officer, or by order of the coroner.

Human body not to be disinterred without permit.

§ 187. It shall be unlawful to disinter or exhume from a grave, vault, or other burial-place within the limits of such city, or city and county, the body or remains of any deceased person, unless a permit for so doing

shall have first been obtained from the health officer of such city, or city and county. Nor shall any body or remains disinterred, exhumed, or taken from any grave, vault, or other place of burial or deposit, be transported in or through the streets or highways of any such city, or city and county, unless the person or persons removing or transporting such body or remains shall first obtain from the health officer a permit, in writing, therefor, as aforesaid. But when an applicant for a permit to disinter a body shall desire to remove said body beyond the limits of such city, or city and county, and shall so state on making application, the permit, if the same be issued, shall include the right to disinter and remove, and said permit shall accompany the remains.

Discretion of health officer.

§ 188. Permits to disinter or exhume the bodies or remains of deceased persons and to transport the same, or to exhume, or to transport, as in the last section provided, may be granted, in the discretion of the health officer, and under such restrictions and conditions only as he, in his judgment, may affix, so as in the best possible manner to protect the public health. The health officer shall prepare a book of blank permits in proper form, and consecutively numbered, containing stubs, on which, as well as in the permit, shall be entered a record of the transaction, giving the name, age, sex, nativity, date of death, destination of remains sought to be removed, and upon granting each permit shall be required to be paid to him the sum of ten dollars therefor, for the use and benefit of the general fund of such city, or city and county.

Penalty of disinterring without permit.

§ 189. Any person or persons who shall disinter, exhume, or remove, or cause to be disinterred, exhumed, or removed, from a grave, vault, or other receptacle or burial-place, the remains of a deceased person, without a permit therefor, shall be guilty of a misdemeanor, and be punished by fine not less than fifty dollars nor more than five hundred dollars, or imprisonment in the county jail for not less than thirty days nor more than six months, or by both such fine and imprisonment.

Penalty for transporting body without permit.

§ 190. Any person or persons who shall transport, or cause to be transported, on or through the streets or highways of any such city, or city and county, the body or remains of a deceased person which has been disinterred or exhumed without a permit therefor, in accordance with this chapter, shall be guilty of a misdemeanor, and be punished as provided in the preceding section.

Exception.

§ 191. Nothing in this chapter contained shall be taken to apply to the removal of the remains of the deceased person from one place of interment to another place of interment, or cemetery, within this state.

Penalties.

§ 192. No person, master, captain, or conductor in charge of any boat, vessel, or railroad car, or public or private conveyance, shall receive for

transportation, or shall transport, the body of any person who has died within the limits of such city, or city and county, without said body is accompanied by a permit for such transportation from the health officer, which permit shall accompany the body to its destination; and no person, master, captain, or conductor as aforesaid, shall bring into or transport through any such city, or city and county, the dead body or remains of any person unless it be accompanied with a certificate from some proper authority of the place from whence it came, stating the name, age, sex, and cause of death, which certificate shall be filed at the health office; provided, that in no case shall the body of any person who died of contagious disease be brought to such city, or city and county, within one year after the day of death.

Nuisances, how abated.

§ 193. Whenever a nuisance shall exist on the property of any non-resident, or any property the owner or owners of which cannot be found by either health inspector, after diligent search, or on the property of any owner or owners upon whom due notice may have been served, and who shall for three days refuse or neglect to abate the same, or any property belonging to such city, or city and county, it shall be the duty of the board of health to cause the said nuisance to be at once removed or abated, and to draw upon the general fund in such sums as may be required for such removal or abatement, not to exceed two hundred dollars; provided, that whenever a larger expenditure is found necessary to be made in the removal or suppression of any nuisance, the municipal council of such city, or city and county, shall, upon the written application of the board of health, by ordinance, appropriate, allow, and order paid, out of the general fund, such sum or sums as may be necessary for that purpose; provided further, that in all cases where such expenditure will exceed five hundred dollars, no appropriation shall be made for that purpose unless the city, or city and county, attorney shall first give his opinion in writing that such expenditure would be a legal charge against the property affected thereby. And the auditor shall audit and the treasurer shall pay all appropriations of money made in pursuance of this section, in the same manner as is now provided by law for auditing and paying demands upon the treasury.

Fee-book open to public inspection.

§ 194. The health officer and the quarantine officer must each keep a book open to public inspection, in which must be entered daily all fees collected by them, and they must pay all fees collected to such city, or city and county, treasurer, daily, to the credit of the general fund.

Bond of health officer.

§ 195. The health officer must execute an official bond, with two sureties, to be approved by the board of health, in the sum of ten thousand dollars; and the quarantine officer must execute a like official bond, with two sureties, in the sum of ten thousand dollars; which bonds shall be filed with the auditor of such city, or city and county.

Who may administer oaths.

§ 196. Any member of the board of health, the health officer, and the quarantine officer, and the secretary of the board of health, is hereby authorized to administer oaths on business connected with the health department.

Suits, where maintained.

§ 197. Whenever any cause of action arises under any of the provisions of this chapter relating to the health department, suit may be maintained thereon in the name of the health or quarantine officer, as the case may be, in any superior court or justice's court of this state.

Duty of physicians in certain cases.

§ 198. Every physician in any such city, or city and county, shall report to the health officer, in writing, every patient he shall have laboring under Asiatic cholera, variola, diphtheria, scarlatina, or other contagious diseases, immediately thereafter, and report to the same officer every case of death from such disease.

Duty of householders in certain cases.

§ 199. Every householder in any such city, or city and county, shall forthwith report, in writing, to the health officer the name of every person boarding, or an inmate of his or her house, whom he or she shall have reason to believe sick of cholera, or smallpox, and any deaths occurring at his or her house from such disease.

Park commissioners, how appointed and their duties.

§ 200. There shall be a board of park commissioners of such city, or city and county, consisting of three persons, to be appointed by the governor of this state, who shall hold their office for four years, and who shall receive no compensation for their services. In case of a vacancy, the same shall be filled by the remaining members of the board for the residue of the term then vacant; and all vacancies occasioned by expiration of terms of office, or neglect, or incapacity, shall be filled by the governor aforesaid. Each of said commissioners shall be a freeholder and resident of such city, or city and county. Said board shall have full and exclusive control and management of all the parks of such city, or city and county, which at the time of the organization of such city, or city and county, under this act, were treated and improved as public parks, with the avenues and great highways connected therewith. Two of said commissioners shall constitute a quorum to do business, but no money shall be expended or contract entered into authorizing the expenditure of money without the approval of the mayor and a majority of said board of park commissioners.

Powers.

§ 201. Said board shall have power to govern, manage, and direct said parks and avenues leading thereto as have heretofore been operated or managed in connection therewith; to lay out, regulate, and improve such parks and avenues; to pass ordinances for the regulation and gov-

ernment of the same; to appoint one general superintendent, who shall perform the duties of overseer and managing gardener, who shall receive a salary of two thousand four hundred dollars per annum. The city, or city and county, surveyor shall be ex-officio engineer of the works, and shall perform such engineering work as the commissioners may require of him. Prisoners over the age of twenty-one years, sentenced to hard labor in any of the jails, prisons, houses of correction, work-houses, or other penal establishments of such city, or city and county, may be put to work upon the parks. The commissioners may employ such other laborers as shall be necessary; within the amount allowed by law to be expended on said parks, at wages not to exceed the current wages paid in such city, or city and county, for labor. They shall in no year incur any debt or deficit, nor expend any money beyond the amount realized by the tax herein provided for. All persons violating any of the ordinances of the commissioners regulating the parks shall be deemed guilty of misdemeanor, and punished accordingly.

Taxes for park improvement, how levied.

§ 202. The municipal council shall have the power to levy and collect, in the mode prescribed by law for the levy and collection of taxes, each year, upon all property in such city, or city and county, the sum of one and one-half cents upon each one hundred dollars valuation of taxable property therein, for the purpose of preserving and improving the parks and avenues under control and management of said commissioners. Said money shall be paid into the treasury, and paid out for said purpose; all claims to be first allowed by said commissioners and audited by the auditor. The jurisdiction of the park commissioners shall not extend to unimproved parks, nor squares and places not hitherto treated as parks, unless extended thereto by an ordinance of the municipal council. The commissioners may lease, for terms not to exceed three years, any portion of said grounds not immediately required for improvement, the proceeds to go to the improvement of the parks and avenues.

Reports of park commissioners.

§ 203. The park commissioners shall make semi-annual reports to the mayor and municipal council of all their proceedings, and a detailed statement of all the receipts and expenditures.

Duties of mayor and other officers in reference to contracts.

§ 204. The mayor shall see that all contracts and agreements with the city are faithfully kept and performed, and to this end he shall cause legal proceedings to be instituted and prosecuted against all persons or corporations failing to fulfill their agreements. And it is the duty of any and every city, or city and county, officer, when it shall come to his knowledge that any contract with such city, or city and county, relating to the business of any office whatever, has been or is about to be violated by the other contracting party, forthwith to report the fact to the mayor. A failure to do so shall be a sufficient cause for the removal of any officer of any department. The mayor shall give a certificate, on demand, to any officer giving such information that he

has done so, which certificate shall be evidence in exoneration from a charge of neglect of such duty. The city, or city and county, attorney shall prosecute all suits so ordered by the mayor.

Article V.—Judicial Department.

Number and jurisdiction of justices.

§ 213. There shall be in and for such city, or city and county, one justices' court, composed of six justices of the peace, which shall have the powers and jurisdiction prescribed and conferred by law upon justices of the peace and justices' courts, in such city, or city and county. All actions, suits, and proceedings whereof justices of the peace and justices' courts in such city, or city and county, have jurisdiction, shall be commenced, entitled and prosecuted in said court. Such courts shall be always open, nonjudicial days excepted, and causes therein may be tried before the presiding justice, before any one of the justices before whom the original process may be made returnable, or to whom the cause may be assigned or transferred for trial.

Presiding justice.

§ 214. The board of aldermen shall appoint one of the justices of the peace to be presiding justice, who, as such, shall hold office until his successor shall in the same manner be appointed; and any one of the other justices may attend, preside and act as presiding justice during the temporary absence or disability of the justice so appointed. The board of aldermen, within ten days after its organization as such board, shall appoint a justices' clerk, who shall hold office during the pleasure of the appointing power. The clerk shall take the constitutional oath of office, and give bond, with at least two sufficient sureties, to be approved in the same manner as the official bond of other officers of such city, or city and county, in the sum of not less than fifteen thousand dollars, payable to the city, or city and county, conditioned for the faithful discharge of the duties of his office, and well and truly to account for and pay into the treasury of such city, or city and county, as required by law, all moneys by him collected or received, and by law designated for that use. A new or additional bond may be required by the municipal council whenever it deems it necessary; and on failure to furnish such new or additional bond within five days after it shall be required, the office shall become vacant. The justices' clerk shall have authority to administer oaths, and take and certify affidavits in any action, suit or proceeding in all courts in such city, or city and county, and to appoint two deputy clerks, for whose acts he shall be responsible on his official bond; the said deputy clerks to hold office during the pleasure of said clerk. Said deputy clerks have the same power as the said clerk, except that of appointment.

Offices for justices, and office hours.

§ 215. The municipal council of such city, or city and county, shall provide, in some convenient locality in the city, or city and county, a suitable office, or suite of offices, for said presiding justice, justices' clerk,

deputy clerk, and deputy sheriff, and offices suitable for holding sessions of said court, and separate from one another, for each of said justices of the peace, together with attendants, furniture, fuel, lights and stationery, sufficient for the transaction of business; and if they are not provided, the court may direct the sheriff to provide the same, and the expenses incurred, certified by the justices to be correct, shall be a charge against the city, or city and county, treasury and paid out of the general fund thereof. The said justices, justices' clerk and deputy clerk, shall be in attendance at their respective offices for the dispatch of official business daily, from the hour of 9 o'clock A. M. until 5 o'clock P. M.

Legal process, how issued.

§ 216. All legal process of every kind in actions, suits or proceedings in said justices' court, for the issue of service of which any fee is or may be allowed by law, shall be issued by the said justices' clerk, upon the order of the presiding justice, or upon the order of one of the justices of the peace, acting as presiding justice, as in this chapter provided; and the fees for issuance and service of all such process, and all other fees which are allowed by law for any official services of justices, justices' clerk, or sheriff, shall be exacted and paid in advance into the hands of said clerk, and be by him daily, weekly or monthly, as the municipal council may require, and before his salary shall be allowed, accounted for in detail, under oath, and paid into the treasury of such city, or city and county, as part of the special fee fund thereof; provided, that such payment in advance shall not be exacted from parties who may prove, to the satisfaction of the presiding justice, that they have good cause of action, and that they are not of sufficient pecuniary ability to pay the legal fees; and no judgment shall be rendered in any action before said justices' court, or any of said justices, until the fees allowed therefor, and all fees for previous services therein, which are destined to be paid into the treasury, shall have been paid, except in cases of poor persons, as hereinbefore provided.

Sheriff and deputies for justices' courts.

§ 217. The sheriff of such city and county shall be ex-officio an officer of said court, and it shall be his duty to serve or execute, or cause to be served and executed, each and every process, writ, or order that may be issued by said justices' court; provided, that a summons issued from said court may be served and returned as provided in section 849 of the Code of Civil Procedure; and that subpoenas may be issued by the justices' clerk, and served as provided in sections 1987 and 1988 of the Code of Civil Procedure. The said sheriff may appoint, in addition to the other deputies allowed by law, three deputies, whose duty it shall be to assist said sheriff in serving and executing the process, writs, and orders of the said justices' court. Said deputies shall receive a salary of not to exceed one hundred and twenty-five dollars per month each, payable monthly, out of the city and county treasury, and out of the special fee fund, after being first allowed and audited as other demands

are by law required to be audited and allowed. One of said deputies shall remain in attendance during the sessions of said court, and at such other times as the said court or the presiding justice thereof may order and direct, for the purpose of attending to such duties as may be imposed on said sheriff or said deputies, as herein provided or required by law. The said sheriff shall be liable on his official bond for the faithful performance of all duties required of him or any of his said deputies.

Style of action.

§ 218. All actions, suits, and proceedings in such city, or city and county, whereof justices of the peace or justices' courts have jurisdiction, except those cases of concurrent jurisdiction that may be commenced in some other court, shall be entitled: "In the justices' court of the city of— (or the city and county of—)," (inserting the name of the city, or city and county), and commenced and prosecuted in said justices' court, which shall be always open. The original process shall be returnable, and the parties summoned required to appear, before the presiding justice, or before one of the other justices of the peace, to be designated by the presiding justice at his office; but all complaints, answers, and other pleadings and papers required to be filed, shall be filed and a record of all such actions, suits, and proceedings made and kept in the clerk's office aforesaid; and the presiding justice, and each of the other justices, shall have power, jurisdiction, and authority to hear, try, and determine any action, suit, or proceeding so commenced, and which shall have been made returnable before him, or may be assigned or transferred to him, or any motion, application, or issue therein (subject to the constitutional right of trial by jury), and to make any necessary and proper orders therein.

In case of disability of justice, case to be tried before another justice.

§ 219. In case of sickness, or disability, or absence of a justice of the peace (on the return of a summons, or at the time appointed for trial) to whom a cause has been assigned, the presiding justice shall reassign the cause to some other justice, who shall proceed with the trial and disposition of said cause in the same manner as if originally assigned to him; and if, at any time before the trial of a cause or matter returnable or pending before any of said justices, either party shall object to having the cause or matter tried before said justice on the ground that such justice is a material witness for either party, or on the ground of the interest, prejudice, or bias of such justice, and such objection be made to appear in the manner prescribed by section 833 of the Code of Civil Procedure, the said justice shall suspend proceedings, and the presiding justice, on motion and production before him of the affidavit and proofs, shall order the transfer of the cause or matter for trial before some other justice, to be designated by him. The presiding justice may, in like manner, assign or transfer any contested motion, application, or issue in law, arising in any cause, returnable or pending before him or any other justice, to some other justice, and the said justice to whom any cause, matter, motion, ap-

plication, or issue shall be so as aforesaid assigned or transferred, shall have power, jurisdiction, and authority to hear, try, and determine the same accordingly.

Certain cases to be certified to superior court by presiding justice, and justices' clerk.

§ 220. Cases which, by the provisions of law, are required to be certified to the superior court, by reason of involving the question of title or possession of real property, or the legality of any tax, impost, assessment, toll, or municipal fine, shall be so certified by the presiding justice and justices' clerk; and for that purpose, if such question shall arise on the trial while the case is pending before one of the other justices, such justice shall certify the same to the presiding justice. All abstracts and transcripts of judgments and proceedings in said court, or in any of the dockets or registers of or deposited in said court, shall be given and certified from any of such dockets or registers and signed by the presiding justice and clerk, and shall have the same force and effect as abstracts and transcripts of justices of the peace in other cases. Appeals from judgments rendered in said court shall be taken and perfected in the manner prescribed by law, and the notice of appeal and all papers required to be filed to perfect it shall be filed with the justices' clerk. Statements on appeal shall be settled by the justice who tried the cause. Sureties on appeal, or on any bond or undertaking given in any cause or proceeding in said court, when required to justify, may justify before any one of the justices.

Jurisdiction.

§ 221. The jurisdiction of the justices' court of such city, or city and county, extends to the limits of the city, or city and county, and its process may be served in any part thereof.

Powers of associate justices.

§ 222. The presiding justice, whenever in his judgment the prompt dispatch of business shall demand it, may require the aid of one of the justices of the peace in the discharge either of his own duties or those of the justices' clerk (the collection of fees, accounting for, and paying the same into the treasury excepted), and each of the justices, when so required, shall, for the purpose, have the same power and authority as the presiding justice or clerk in whose aid he shall act; and any one of the justices, when required as aforesaid, may act as a justices' clerk pro tempore during the temporary absence or disability of such clerk, with the same powers, duties, and responsibilities.

"Justices' Docket."

§ 223. In a suitable book, strongly bound, the justices' clerk shall keep a permanent record of all actions, proceedings, and judgments commenced, had, or rendered in said justices' court, which book shall be a public record, and be known as the "Justices' Docket," in which docket the clerk shall make the same entries as are provided for in section 911 of the Code of Civil Procedure, and which said docket and entries

therein shall have the same force and effect as is provided by law in reference to dockets of justices of the peace. To enable the clerk to make up such docket, each of the justices shall keep minutes of his proceedings in every cause returnable before, or assigned or transferred to, him for trial or hearing; and upon judgment, or other disposition of a cause, such justice shall immediately certify and return the said minutes, together with all pleadings and papers in said cause, to the clerk's office, who shall immediately thereupon file the same, and make the proper entries under the title of the action in the docket aforesaid.

Procedure.

§ 224. The justices' court and the justices of the peace of every such city and county shall be governed in their proceedings by the provisions of law regulating proceedings before justices of the peace, so far as such provisions are not altered or modified in this chapter, and the same are or can be made applicable in the several cases arising before them. The justices' court of such city, or city and county, shall have power to make rules, not inconsistent with the constitution and laws, for the government of such justices' court and the officers thereof; but such rules shall not be in force until thirty days after their publication; and no rule shall be made imposing any tax or charge on any legal proceeding, or giving any allowance to any justice or officer for services.

New justices' court a continuation of old.

§ 225. All actions and proceedings pending and undetermined before the justices' court of such city, or city and county, if any, at the time of its organization under this act, shall be proceeded in, heard, and determined before the court herein provided for, and execution shall be issued thereon, and other proceedings had therein, whether before or after judgment, whether on appeal or otherwise; and the court provided for under this act shall be deemed to be a continuation of the same court before existing, and not a new court.

Prohibition to practice by justices.

§ 226. It shall not be lawful for any justice of the peace, the justices' clerk, or the sheriff, or any of his deputies, of such city, or city and county, to appear or advocate, or in any manner act as attorney, counsel, or agent for any party or person in any cause, or in relation to any demand, account, or claim, pending, or to be sued or prosecuted before said justices, or any of them, or which may be within their jurisdiction. A violation of the provisions of this section shall be deemed a misdemeanor in office.

Qualifications of attorneys.

§ 227. No person other than an attorney at law, duly admitted and licensed to practice in courts of record, shall be permitted to appear as attorney or agent for any party in any cause or proceeding before said justices, or any of them, unless he produce a sufficient power of attorney to that effect, duly executed and acknowledged before one of said justices, or before some other officer authorized by law to take acknowledg-

ment of deeds; which power of attorney, or a true copy thereof, duly certified by one of the justices aforesaid (who, on inspection of the original, shall attest to its genuineness), shall be filed among the papers in such cause or proceeding.

Appointment of additional justices.

§ 228. If, at the time of the organization of any such city, or city and county, under this act, there shall not be the complement of justices of the peace provided for in this chapter, the municipal council of such city, or city and county shall appoint a suitable person or persons to fill such complement and the person or persons so appointed shall hold office from his or their appointment, and until his or their successor or successors is or are elected or appointed and qualified.

Police court.

§ 229. The judicial power of such city, or city and county, shall be vested in a "police court," to be held therein by the police judges. The police court shall not be a court of record. Said court shall have a seal. The judges of said court may hold as many sessions of said court at the same time as there are judges thereof. There shall be two departments of said court, denominated, respectively, Department One and Department Two. The court may sit in departments, and shall be always open for the transaction of business. There shall be, as far as practicable, an equal distribution of cases between the said departments, which cases shall be alternately set down for trial to each department in the order in which the warrants are issued or proceedings brought before the court. Said judges shall, as soon as may be after the commencement of the terms of their office, classify themselves by lot for assignment to said departments, and shall be thereby assigned accordingly.

Power and jurisdiction of police court.

§ 230. All the power and jurisdiction of said court shall be enjoyed and may be exercised in bank, or in either department thereof. All the powers of said judges may be exercised by either of them.

Same.

§ 231. The police court of such city, or city and county, shall have jurisdiction:

1. Of an action or proceeding for the violation of any ordinance of such city, or city and county;
2. Of proceedings respecting vagrants and disorderly persons.

Same.

§ 232. The police court shall have jurisdiction of the following public offenses committed in such city, or city and county:

1. Petit larceny; receiving stolen property, when the amount involved does not exceed fifty dollars.
2. Assault and battery, not charged to have been committed upon a public officer in the discharge of his duties or with intent to kill;
3. Breaches of the peace, riots, affrays, committing willful injury to property, and of all misdemeanors punishable by a fine not exceeding one

thousand dollars, or by imprisonment not exceeding one year, or by both such fine and imprisonment;

4. Said court or judges shall have jurisdiction of proceedings for security to keep the peace; and also, throughout such city and county, the same powers and jurisdiction, in other criminal actions, cases, prosecutions, and proceedings as are now or hereafter may be conferred by law upon police or justices' courts.

Power to hold examinations.

§ 233. The judges of said court shall have power to hear cases for examination, and may commit and hold the offender to bail for trial in the superior court, and may try, condemn, or acquit, and carry their judgment into execution, as the case may require according to law, and shall have power to issue warrants of arrest, subpoenas, and all other process necessary to the full and proper exercise of their power and jurisdiction.

May commit to home of inebriate.

§ 234. Said court or judges shall also have power to commit to the home for the care of the inebriate, when any such institute may be established, any person who may be convicted before them of habitual intemperance, for a term not exceeding six months, or until sooner released by order of the police judges, or by the board of managers of such institution by a two-thirds vote of all the members of said board.

When may commit to industrial schools.

§ 235. The said court or judges shall have the power to commit all offenders duly convicted, under eighteen years of age, to the industrial school of said city and county, in all cases where such commitment shall by said court or judge be deemed to be more suitable than the punishment otherwise provided by law, not to exceed six months. If, upon any trial, it shall appear that the person on trial is under fourteen years of age, and has done an act which if done by a person of full age would warrant a conviction of the crime of misdemeanor charged, then and in that case said court or judges shall have power to commit such child to the industrial school. In either case said court or judges may sentence such person to be confined in the correctional department of said industrial school for any term not exceeding six months. Upon application of the mayor, or any member of the supervisors, or of any three citizens, charging that any child under eighteen years of age lives an idle, or dissolute life, and that his parents are dead, or, if living, do, from drunkenness or other vices or causes, neglect to provide any suitable employment, or exercise salutary control over such child, the said court or judges shall have power to examine the matter, and upon being satisfied of the truth of such charges, may sentence such child to the industrial school; provided, that no person shall be so sentenced for a longer period than until he arrive at the age of eighteen years.

May sentence to labor on public works, etc.

§ 236. In cases where, for any offense, the said court or judges are authorized to impose a fine, or imprisonment in the county jail, or both,

it or they may instead sentence the offender to be employed at labor on the public works, or in the house of correction or workhouse as the supervisors may prescribe, for a period of time equal to the term of imprisonment which might legally be imposed, and may, in case a fine is imposed, embrace as a part of the sentence that in default of payment thereof the offender shall be obliged to labor on said works, at said house of correction or workhouse, or elsewhere, at the rate of one dollar a day, till the fine imposed is satisfied; provided, that no person under the age of twenty-one years, or who is to be sentenced, on conviction for drunkenness or breach of the peace, shall be sentenced to labor upon the public works away from the house of correction or workhouse.

Punishment of contempt.

§ 237. The said court and judges may punish contempts in the same manner and to the same extent as superior courts, and the laws concerning contempts applicable to superior courts shall be applicable to said police court and judges.

Record to be kept by county clerk.

§ 238. The county clerk shall keep a record of the proceedings of the police court, issue all process ordered by said court, and shall render to the auditor, monthly, and before any amount can be paid to him on account of his salary, an exact and detailed account, upon oath, of all fines imposed, and all bail forfeited, and moneys collected, as clerk of said court, since his last account rendered. He shall prepare bonds, justify and accept bail, when the amount has been fixed by the police judges, in cases not exceeding one thousand dollars, and he shall fix, justify, and accept bail after arrest, in the absence of the police judges, in all cases not amounting to a felony, in the same manner and with the like effect as if the same had been fixed by the police judges or police court. The county clerk shall appoint three deputy clerks, who shall act as deputy clerks of said police court. The clerk and the deputy clerks in this section mentioned shall have authority to administer oaths and affirmations, and take and certify affidavits in any proceeding in said police court, in and for said city and county, and to issue subpoenas.

Office hours.

§ 239. The police judges and the deputy clerks shall attend at the courtrooms of said court for the dispatch of business daily, from the hour of 9 o'clock A. M. until 5 o'clock P. M., and during such other reasonable hours as may be necessary for the discharge of their respective duties, except on legal holidays.

Payment of fines by clerk into treasury.

§ 240. The county clerk, as clerk of the police court, shall pay to the treasurer of said city and county, immediately, all fines collected and bail forfeited, accompanied by a verified written statement showing from whom each fine was collected, when collected, in what case, specifying the offense, and in what amount, and in what case and by whom such bail was forfeited. He shall immediately upon the forfeiting of any bail

Employ and dismiss teachers, etc.

4. To employ and pay and to dismiss teachers, janitors, school-census marshals, and such mechanics and laborers, and such other persons as may be necessary to carry into effect the powers and duties of the board, and unless otherwise provided by law, to fix, alter, and allow paid their salaries and compensations, and to withhold, for good and sufficient cause, the whole or any part of the salary or wages of any person or persons employed as aforesaid.

Make and establish rules, etc.

5. Also to make and establish and enforce all necessary and proper rules and regulations for the government and efficiency of the schools, teachers, and pupils, and for the carrying into effect of the school system; and to establish and regulate, and grade the schools, the course of studies and mode of instruction therein; to investigate all charges of misconduct on the part of teachers and other employees of the board; to administer oaths and take testimony; to summon and enforce the attendance of and examine witnesses for such purpose before the board, or a member or committee thereof. Any person summoned and refusing to attend and testify shall be deemed guilty of a misdemeanor; and any person testifying falsely shall be guilty of perjury, and on conviction punished accordingly.

Provide fuel, stationery, etc.

6. To provide for the school department of such city, or city and county, fuel, lights, blanks, blank-books, books, printing, and stationery, and such other articles, materials, or supplies as may be necessary and appropriate for use in the schools, or in the office of the superintendent.

Provide schoolhouses.

7. To build, alter, repair, rent, and provide schoolhouses, and furnish them with proper school furniture, apparatus, and appliances, and to insure any and all school property, and to use and control such buildings as may be necessary for the uses of the board and its committees.

To purchase school lots.

8. To receive, purchase, lease, and hold in fee, in trust for such city, or city and county, any and all real estate and personal property that may have been or which hereafter may be acquired for the use and benefit of the schools of such city, or city and county.

Grade school lots.

9. To grade, fence, and improve school lots, and in front thereof.

To sue and be sued.

10. To sue for any and all lots, lands, and property belonging to or claimed by the school department of such city, or city and county, and to prosecute and defend all actions at law or in equity necessary to recover the full enjoyment and possession of said lots, lands, and property, and to require the services of the city, or city and county, attorney in all such suits and proceedings.

To superintend disbursement of school moneys.

11. To establish regulations for the just and equal disbursement of all moneys belonging to the school department, or to the public school fund, and to make rules and regulations to secure economy and accountability in the expenditure of school money.

To sell certain personal property.

12. To discharge all legal encumbrances existing upon any school property; to dispose of and sell such personal property used in the schools as shall no longer be required, and all moneys realized by such sales shall be paid into the city treasury to the credit of the public school fund.

To lease lots, etc.

13. To lease, for the benefit of the public school fund, for a term not exceeding five years, any unoccupied property of the school department not required for school purposes; to prohibit any child under six years of age from attending the schools; and generally to do and perform such other acts as may be necessary and proper to carry into force and effect the powers conferred on said board.

Who may administer oaths.

§ 250. The president of the board of education, the superintendent, and the secretary shall have power to administer oaths or affirmations concerning any demands upon the treasury payable out of the public school fund, or other matters relating to their official duties or the school department.

Reports.

§ 251. It shall be the duty of each director to make quarterly reports to the board of the condition of the schools in their respective districts.

Supplies, how furnished.

§ 252. It shall be the duty of the board of education to furnish all necessary supplies for the public schools. All supplies, books, stationery, fuel, printing, goods, material, building, repairs, merchandise, and every other article and thing supplied to or done for the public schools, or any of them, when the expenditure to be incurred is likely to exceed two hundred dollars, shall be done by contract, let to the lowest responsible bidder, after advertisement by the superintendent of schools; and the contract shall be entered into by the superintendent with the party to whom the contract is awarded; and the superintendent shall take care that such contract is carried out in strict accordance with the terms thereof.

Bids and contracts, how made and awarded.

§ 253. All bids or proposals made under the preceding section shall be delivered to the superintendent of schools, and said board shall, in open session, open, examine, and publicly declare the same, and award the contract to the lowest responsible bidder; provided, said board may reject any and all bids, should they deem it for the public good, and also the bid of any party who may be proved delinquent or unfaithful in any

former contract with such city and county, or said board, and cause a republication of the notice for proposals as above specified. Any person may bid for any one article.

Not to be interested in contract.

§ 254. Any school director, officer, or other person officially connected with the school department, or drawing a salary from the board of education, who shall, while in office, or so connected, or drawing salary, be interested, either directly or indirectly, in, or who shall gain any benefit or advantage from any contract, payments under which are to be made in whole or in part of the moneys derived from the school fund, or raised by taxation or otherwise for the support of the public schools, shall be deemed guilty of felony, and on conviction, punished accordingly; and this provision shall not be construed to relieve such persons from any other penalty, but shall be deemed cumulative to and with other penalties and disabilities as to such acts and offenses.

Annual report.

§ 255. The board shall make and transmit, between the fifteenth day of January and the first day of February of each year, to the state superintendent of public instruction, and to the mayor and municipal council of such city, or city and county, a report, in writing, stating the whole number of public schools within the jurisdiction, the length of time they have been kept open, the number of pupils taught in each school, the whole amount of money drawn from the treasury by the department during the year, distinguishing the amounts drawn from the general fund of the state from all other, and from what sources, and the manner and purpose in which such money has been expended, with particulars, and such other information as may be required from them by the state superintendent, the municipal council, or the mayor.

Evening school.

§ 256. The board shall provide evening schools, to be held in the public schoolhouses, for the benefit of those unable to attend the day schools. They shall make and enforce regulations requiring the teachers to keep records of the names, ages, and residences of all pupils, and the names and residences of their parents, and the aggregate attendance of each pupil during the year, and to verify and report the same on the thirty-first day of December to the board; and such other rules and regulations for the purpose of ascertaining the attendance and efficiency of the department and progress of education.

Superintendent a member of board.

§ 257. The superintendent of schools shall be ex officio member of the board of education without the right to vote.

Clerk.

§ 258. Said superintendent shall appoint a clerk, subject to the approval of the board of education, who shall act as secretary of said board. His salary shall be two hundred dollars a month. Said clerk

may be removed at the pleasure of the superintendent, and shall perform such duties as shall be required of him by the board or the superintendent.

Report of superintendent.

§ 259. The superintendent shall report to the board annually, on or before the first day of August, and at such other time as the board may require, all matters pertaining to the expenditures, income, condition, and progress of the public schools of such city, or city and county, during the preceding fiscal year, with such recommendations as he may deem proper. He shall observe and cause to be observed, such general rules for the regulation, government, and instruction of the schools, not inconsistent with the laws of the state, as may be established by the board. He shall attend the sessions of the board, and inform himself, at each session, of the condition of schools, schoolhouses, school funds, and other matters connected therewith, and to recommend such measures as he may deem necessary for the advancement of education in such city, or city and county. He shall acquaint himself with all the laws, rules, and regulations governing the public schools in such city, or city and county, and the judicial decisions thereon, and give advice on subjects connected with the public schools gratuitously to officers, teachers, pupils, and their parents and guardians.

Shall visit schools.

§ 260. The superintendent of schools shall visit and examine the schools, and see that they are efficiently conducted, and that the laws and regulations of the board are enforced in all things, and that no religious or sectarian books or teachings are allowed in the schools, and to report monthly to the board. He shall also report to the state superintendent at such times as such officer shall require.

Vacancy, how filled.

§ 261. Any vacancy in the office of school director shall be filled for the remainder of the term by a person to be appointed by the board of aldermen.

Vacancy in office of superintendent, how filled.

§ 262. In case of a vacancy in the office of superintendent, the board of aldermen may appoint a person to fill the vacancy until the next regular election, when the office shall be filled by the people.

School fund.

§ 263. The school fund of such city, or city and county, shall consist of all moneys received from the state school fund; of all moneys arising from taxes which shall be levied annually by the municipal council of such city, or city and county, for school purposes; of all moneys arising from sale, rent, or exchange of any school property, and of such other moneys as may, from any source whatever, be paid into said school fund. Said fund shall be kept in the city, or city and county, treasury, separate and distinct from all other moneys, and shall only be used for

school purposes under the provisions of this chapter. No fees or commissions shall be allowed or paid for assessing, collecting, keeping, or disbursing any school moneys; and if at the end of any fiscal year any surplus remains in the school fund, such surplus money shall be carried forward to the school fund of the next fiscal year, and shall not be, for any purpose whatever, diverted or drawn from said fund, except under the provisions of this chapter.

School fund, how used.

§ 264. The said school fund shall be used and applied by said board of education for the following purposes, to wit:

1. For the payment of the salaries or wages of teachers, janitors, school-census marshals, and other persons who may be employed by said board.

2. For the erection, alteration, repair, rent, and furnishing of school-houses;

3. For the expenses of high, normal, and experimental schools;.

4. For the purchase money or rent of any real or personal property purchased or hired by the board;

5. For the insurance of all school property;

7. For the discharge of all legal encumbrances now or hereafter existing on any school property;

8. For lighting schoolrooms, and the office and rooms of the superintendent and the board of education;

9. For supplying the schools with fuel, water, apparatus, blanks, blank-books, and necessary school appliances, together with books for indigent children;

10. For supplying books, printing, and stationery for the use of the superintendent and board of education, and for the incidental expenses of the board and department;

11. In grading, fencing, and improving school lots.

Claims, how allowed.

§ 265. All claims payable out of the school fund (excepting coupons for interest in school bonds), shall be filed with the secretary of the board, and after they shall have been approved by a majority of all the members elect of the board, upon a call of "yeas" and "nays" (which shall be recorded), they shall be signed by the president of the board and the superintendent of the public schools, and be sent to the city and county auditor. Every demand shall have indorsed upon it a certificate of its approval by the board, showing the date thereof, and the law authorizing it, by title, date, and section. All demands for teachers' salaries shall be payable monthly.

Demands on school funds.

§ 266. Demands on the school fund may be audited and approved in the usual manner, although there shall not, at the time, be money in the treasury for the payment of the same; provided, that no demand on said fund shall be paid out of or become a charge against the school fund of any subsequent fiscal year; and further provided, that the entire

expenditures of the said school department, for all purposes, shall not, in any fiscal year, exceed the revenues thereof for the same year.

Auditor to designate fund.

§ 267. The city, or city and county, auditor shall state, by indorsement upon any claim or demand audited in the school fund, the particular money or fund out of which the same is payable, and that it is payable from no other source.

Audited bills receivable for taxes.

§ 268. Audited bills for the current fiscal year for wages or salaries of the teachers in the public schools shall be receivable for school taxes due upon real estate. All demands shall be audited and paid in the usual manner.

§ 269. All lawful demands authorized by this chapter for school purposes shall be audited and approved in the usual manner, and the auditor and treasurer of such city, or city and county, are respectively authorized to audit and pay the same, when so ordered paid and approved by the said board; provided, that the said board shall not have the power to contract any debt or liability, in any form whatsoever, against such city, or city and county, in contravention of this chapter; and provided further, that the allowance or approval by the board of demands not authorized by this chapter shall be no warrant or authority to the auditor or treasurer to audit or pay the same.

Board of education to make estimate.

§ 270. It shall be the duty of the board of education of such city, or city and county, on or before the second Monday of September of each year, to report to the municipal council an estimate of the amount of money which will be required during the year for the purpose of meeting the current annual expenses of public instruction in such city, or city and county, specifying the amount required for supplies furnished pupils, for purchasing and procuring sites, for leasing rooms, or erecting buildings, and for furnishing, fitting up, altering, enlarging, and repairing buildings; for the support of schools organized since the last annual apportionment; for salary of teachers, janitors, clerks, and other employees, and other expenditures authorized by law; but the aggregate amount so reported shall not exceed the sum of thirty-five dollars for each pupil who shall have actually attended and been taught in the preceding year in the schools entitled to participate in the apportionments. The number of pupils who shall be considered as having attended the schools during any one year shall be ascertained by adding together the number of days' attendance of all the pupils in the common schools during the year, and dividing the same by the number of school days in the year. Said municipal council is authorized and empowered to levy and cause to be collected, at the time and in the manner of levying state and other city, or city and county, taxes, the amount of tax, not to exceed thirty-five dollars per pupil, determined and reported by the board of education. The amount so levied and collected shall not include the amount received annually from poll taxes.

No sectarian school shall receive school money.

§ 271. No school shall receive any portion of the school moneys in which the religious doctrines or tenets of any particular Christian or other religious sect are taught, inculcated, or practiced, or in which any book or books containing compositions favorable or prejudicial to the particular doctrines or tenets of any particular Christian or other religious sect is used; nor shall any such books or teachings be permitted in the common schools.

No member of board shall disburse school money, or accept gift.

§ 272. No member of the board of education shall ever become the disbursing agent of such board, or handle or pay out any of its money under or upon any pretense whatever. Any violation of this provision shall be a misdemeanor, and shall subject the offender, besides the punishment, to removal from office. Any member or officer of the board of education who shall, while in office, accept any donation or gratuity in money, or of any valuable thing, either directly or indirectly, from any teacher, or candidate, or applicant for a position as teacher, upon any pretense whatever, shall be deemed guilty of a misdemeanor in office and shall be ousted by the board, or by any court of competent jurisdiction, from his seat, on proof thereof. Any member or officer of the board of education who shall accept any money, or valuable thing, or the promise thereof, with an agreement or understanding, express or implied, that any person shall, in consideration thereof, get the vote or influence of such member or officer for a situation as a teacher or employee of any kind in the school department, shall be deemed guilty of a felony, and on conviction, shall be punished accordingly.

Article VII.—Miscellaneous Provisions.**Laws which do not conflict with this act are continued in force.**

§ 286. All the existing provisions of law defining the duties of county officers, excepting those relating to supervisors and boards of supervisors, so far as the same are not inconsistent with, repealed, or altered by the provisions of this chapter, shall be considered as applicable to officers of any consolidated cities and counties, acting or elected under this chapter. Provisions shall be made from the revenues of any city, or city and county, heretofore existing and reorganized under this act, for the payment of the legal indebtedness of the municipal corporation to which such reorganized city, or city and county, shall succeed, or of which it is a reorganization, as well as for that of such city, or city and county, after its organization, and all funding acts and other laws providing for the payments of principal and interest on any funded debt of such former corporation shall remain in force. The taxes which may be levied and collected in such city, or city and county, shall be uniform throughout the same.

Where provisions of this chapter shall apply.

§ 287. The provisions of this chapter concerning the following named officers, to wit: Sheriff, county clerk, recorder, coroner, and public

administrator, shall apply only to consolidated cities and counties. The provisions of this chapter relating to the district attorney shall, except in consolidated cities and counties, be deemed to apply to the city attorney; and no sheriff, county clerk, recorder, district attorney, coroner, or public administrator shall be elected in any municipal corporation under the provisions of this chapter, except in consolidated cities and counties.

Duty of municipal council in the levy of taxes.

§ 288. The municipal council of any such consolidated city and county shall perform such duties in and about the levy and equalization of state and county taxes, and all other matters and things as are or may be prescribed by law for boards of supervisors of counties in like cases, and not inconsistent with the provisions of this chapter.

CHAPTER III.

Municipal Corporations of the Second Class.

(A charter for cities having a population of more than 30,000 and not exceeding 100,000.)

Article I.—General Powers.

Powers of municipal corporations of the second class.

§ 300. Every municipal corporation of the second class shall be entitled the city of — (naming it), and by such name shall have perpetual succession, may sue, be sued, in all courts and places, and in all proceedings whatever, shall have and use a common seal, alterable at the pleasure of the city authorities, and may purchase, lease, receive, hold, and enjoy real and personal property, and control and dispose of the same for the common benefit; provided, that it shall purchase without the city no property except such as shall be deemed necessary for establishing hospitals, prisons, cemeteries, and industrial schools.

Article II.—General Provisions Relating to Officers.

Election, when held.

§ 301. The municipal election shall be held on the second Monday of March of each even-numbered year, and such election shall be subject to all the provisions of the law regulating elections for state officers, except as otherwise provided in this chapter. At such election there shall be elected, for the government of the city the following officers: Seven councilmen, who shall constitute a board to be known as the city council; a mayor; a treasurer, who shall be ex-officio clerk of the city council; a city attorney; a school superintendent, and a street superintendent, who shall respectively hold office for the term of two years, and until their successors are elected and qualified. One councilman shall be elected from each ward, by the vote of the city at large, and shall hold office for the term of two years, and until his successor is elected and qualified.

Bonds.

§ 302. The clerk and treasurer, superintendent of public schools, street superintendent, and all other officers when required by the city council by ordinance, shall each, before entering upon his official duties, and within ten days after receipt of his certificate of election or appointment, execute a bond, in such sum as the council may direct, payable to the city; which bond shall be subject to the law concerning the official bonds of officers, and to approval by the mayor. And the council may at any time require an additional amount, or new sureties, upon any bond which it may deem insufficient. If such additional security be not given, the council, upon notification thereof by the mayor, may, by vote of two-thirds of the members, declare the office vacant.

Fees, etc., to be paid into treasury.

§ 303. All fees, percentages, and all other moneys received or collected by any officer of the city, shall be paid by such officer, at the end of each month, into the city treasury, for the use of the city; and no payment shall be made to any officer for salary until he shall have taken, and filed with the clerk, an affidavit that he has paid into the city treasury, all fees, percentages, and all other moneys by him theretofore received or collected.

No city officer shall be surety on bond of any corporate officer.

§ 304. No member of the city council, or of the board of education, nor any officer of the city, shall be surety upon the official bond of any corporate officer, nor shall he be, directly or indirectly, interested with or be surety for any person who may be interested in any franchise, contract, appropriation, work, or business, or in the sale of anything the price of or consideration for which is paid or payable by the city, or by assessments levied under an ordinance of the council; nor shall any contract be awarded or franchise granted to any person who may be surety on the official bond of any officer of the city.

Vacancy, how filled.

§ 305. If any officer of such city, or member of the city council, or board of education, shall remove from the city, or absent himself therefrom for more than thirty days, or shall fail to qualify by taking the oath of office as prescribed by law, or to file his official bond, whenever such bond is required, within ten days from the time his election is duly ascertained and declared, his office shall be thereby absolutely vacated, and the city council shall thereupon fill the vacancy upon nomination by the mayor.

Oath of office.

§ 306. Every officer provided for in this chapter shall, before entering upon the duties of his office, take and file with the treasurer the constitutional oath of office; provided, that the oath of office of the treasurer shall be filed with the mayor.

Salaries.

§ 307. The salaries of the officers of such city shall be as follows: Mayor, one thousand dollars per annum; clerk and treasurer, two thou-

sand dollars per annum; assistant to the clerk and treasurer, one thousand two hundred dollars per annum; clerk of the police court, one thousand two hundred dollars per annum; clerk to the police court, nine hundred dollars per annum; city attorney, two thousand dollars per annum; street superintendent, one thousand eight hundred dollars per annum; captain of police, one thousand eight hundred dollars per annum; police detective, one thousand five hundred dollars per annum; school superintendent, two thousand dollars per annum; assistant school superintendent, one thousand two hundred dollars per annum; policemen, nine hundred dollars per annum each. The mayor may appoint a clerk, who shall receive a salary of nine hundred dollars per annum. The salaries of all officers shall be paid in monthly installments, at the end of each and every month of service.

Article III.—Legislative Department.

Time of meeting.

§ 319. The city council shall meet on the first Monday after their election, and at such other times as they may by ordinance appoint. A majority of the council shall constitute a quorum for the transaction of business. They shall determine the rules of their proceedings, and judge of the qualification and election of all officers; and shall provide, by ordinance, the method of calling special meetings of the council. Their sittings shall be public. A journal of their proceedings shall be kept by the clerk, under their direction; and the ayes and noes shall be taken and entered on the journal at the request of any member. They shall prescribe, by ordinance, the duties of all officers whose duties are not defined in this act. They shall have the power to raise, by tax, not exceeding one per cent for all purposes (except for the redemption of bonds) on the assessed value of the real and personal property within the limits of such city, moneys for the establishment and support of free common schools, and to provide suitable grounds and buildings therefor, and defraying the ordinary expenses of the city, as well as for paving, planking, or otherwise improving the streets of the city. They shall also have power to pass all proper and necessary ordinances for the regulation and sale of city property, and to give deeds therefor. They shall have power to open, alter, establish, grade, or otherwise improve and regulate, streets, alleys, and lanes, and the sidewalks upon the same; to construct and keep in repair bridges, so as not to interfere with navigation, fences, public places, wharves, docks, ferries, piers, slips, sewers, and wells, and to make assessments therefor; to regulate and collect tolls, wharfage, dockage, and cramage, upon all water craft, and all goods landed; to make regulations for securing the health, cleanliness, ornament, peace, and good order of the city; for preventing and extinguishing fires, and appointing and regulating firemen, policemen, and such other officers as may be necessary to appoint; for the care and regulation of prisons and markets; for licensing, taxing, and regulating all such vehicles, business, and employments as the public good may require, and as may not be prohibited by law; to levy a tax license upon all dogs, or otherwise prevent the same from running at large in the

streets and public grounds of the city; to regulate and suppress all occupations, houses, places, amusements, and exhibitions which are against good morals, or contrary to the public order and decency; for the regulation and location of slaughter-houses, markets, stables, and gas-works, and houses for the storage of gunpowder and other combustible materials, and limit the quantity of combustible or explosive materials to be stored in any one place; for prohibiting or suppressing the erection of slaughter-houses, or the slaughtering of animals within the limits of the city, and for prohibiting or suppressing the erection or carrying on of any soap or glue factory, tan-yard, powder magazine, or other nuisance within the limits of the city; and to declare what shall constitute a nuisance; and to make and enforce within its limits all such local, police, sanitary, and other regulations as are not in conflict with general laws; and provide suitable buildings for the management, good government, and general welfare of the city. They shall also have power to pass such ordinance or ordinances as may be necessary to prevent animals from running at large within the limits of the city; to establish a pound, and appoint a poundkeeper, and prescribe his duties, and to provide for the public sale, by the poundkeeper, of such animals as may be impounded, in the same way and upon like notice that personal property is sold by execution under the laws of this state; provided, that the owner or owners of such property so impounded may reclaim the same at any time before sale, upon payment of costs and charges of taking up and impounding; and, within thirty days after the sale, upon proof of ownership of the property sold, duly made before the mayor, and upon payment of the costs and expenses of impounding and selling, and upon the payment of the sum of one dollar to the mayor, as a fee for the investigation of the question of ownership, and for his certificate to that effect, such owner or owners may receive the purchase money arising from such sale or sales. Penalties for the violation of any and all ordinances shall be by fine not exceeding one hundred dollars, and in case the fine be not paid, then the person or persons may be imprisoned at the rate of one day for every two dollars of the fine imposed, or in lieu of the imprisonment, or any part of it, the person or persons so fined shall labor, under the direction of the city authorities, either upon the streets, public grounds, or buildings, or in such other places as may be deemed advisable for the benefit or revenue of said city. The city council, upon the nomination of the mayor, shall have power to appoint suitable persons to fill vacancies in any elective office, except that of mayor, until the next regular municipal election, when, if the term be unexpired, an election shall be held to fill such vacancy for the unexpired term of said officers. The members of the city council shall receive no salary for their services. They shall have power to provide for all city elections, to designate the place or places of holding the same, giving at least ten days' notice thereof; to appoint inspectors and judges of election, examine the returns, and declare the result, and to determine contested elections. The president pro tempore of the board shall discharge the duties of mayor, whenever there shall be a vacancy in the office of mayor, or when the mayor shall be absent from the city for a period exceeding five days,

or be unable, from sickness, to attend to the duties of his office. In the absence of the clerk, the city council shall appoint one of their members to act as clerk pro tempore; they shall also have power to set aside any amount of money belonging to the city which may at any time be in the hands of the treasurer, after deducting the current expenses of the city, and the interest due upon the funded debts of the city, as a sinking-fund whereby the bonds issued by the city may be redeemed, or they may, at any time before said bonds shall become due, with any surplus money which may belong to the city, after paying said expenses and interest, redeem or purchase for the city, and in its name, in the manner most advantageous to the city, any outstanding bonds, which bonds or claims, when so purchased, shall be immediately canceled; provided, this right shall not affect the rights of the holders of said bonds, or in any way prevent them from holding the same until said bonds become due and payable; they shall also have the power to determine the width of sidewalks, and the material and manner of their construction, as well as the grade of the same; they shall also have the power to establish fire districts, and within said districts to prevent the erection of wooden buildings, or any buildings composed of combustible materials, and also to prevent the further repairing of wooden buildings within the fire limits established.

Further powers.

§ 320. Said council shall also have power:

Construction of sinks, etc.

1. To regulate the construction of sinks, gutters, wells, cesspools and privy-vaults, and to compel the cleansing or emptying of the same, and the time and manner in which the work shall be done.

Anchorage of vessels, etc.

2. To regulate the anchorage of vessels within the limits of the city, and to prevent obstructions to the free navigation of all navigable waters within the same.

Pollution of water.

3. To prevent persons from throwing into any stream, creek, bay, or other body of water within the limits of the city, from vessels, wharves, or other places, any dirt, ballast, ashes, garbage, dead animals, or other materials that may obstruct the same or pollute the water thereof.

Open streets.

4. To open streets to the channel of any navigable stream or creek within the limits of the city, and to deep water to any navigable bay or lake within the same, and to construct and maintain public wharves at the ends of such streets.

Regulate location of boilers, etc.

5. To regulate the location of steam boilers, the putting up of signs and awnings, and the construction of entrances to basements or cellars from the sidewalks.

License hacks, etc.

6. To establish hack-stands, and to regulate the rates of charges of hacks and other licensed vehicles, and to require a schedule of such charges, printed in conspicuous type and satisfactory to the council, to be posted in a conspicuous place in each hack or other licensed vehicle; provided, however, that the standing of hacks shall not be permitted on any street upon which railroads operated by steam shall be used.

To compel attendance of absent members.

7. To compel the attendance of absent members of said council at any of the meetings thereof, and to cause the arrest of any person for disorderly conduct at their meetings.

Regulate speed of railway engines.

8. To regulate the speed of railway engines in the city, and to require railroad companies to station flagmen at street crossings; to grant franchises permitting steam railroads upon any of the streets of the city; provided, that the same shall only be granted after two weeks' notice, previously published in some newspaper published in the city, and by ordinance passed by the vote of two-thirds of the members elected to said council, approved by the mayor, and upon the previous petition, in writing, of the owners of two-thirds of the front feet of the lands upon the portion of the street to be so used.

Regulate entrance to and from theaters, etc.

9. To regulate the means of entrance to and exit from theaters, lecture-rooms, public halls, and churches, and to prohibit the placing of chairs, stools, benches, or other obstructions in the aisles of such building.

Railway companies to keep certain streets in repair.

10. To require railroad companies to keep the street in repair between the tracks and along and within the distance of two feet upon each side of the track occupied by the company.

License certain property and business.

§ 321. They shall also have the exclusive right, in the manner prescribed by ordinance, of issuing and granting licenses, and of collecting tax licenses for the benefit of the city, upon the following business and property, to wit: Upon each and every person within the limits of the city who shall vend any goods, wares or merchandise, wines, distilled or fermented liquors, drugs, medicines, jewelry, or wares of precious metals; upon persons who keep horses or carriages for rent or hire; upon persons keeping billiard-tables for hire, bowling-alleys, and shooting-galleries; also upon all taverns, innkeepers, and upon all persons who may sell or dispose of any malt, spirituous or fermented liquors or wines in less quantities than one quart; and the said licenses shall be issued quarterly or yearly. Also upon any person within the limits of the city, who shall keep a stallion, jack, bull, or ram, and who shall permit the same to be used for the purpose of propagation for hire or profit, which

license shall be a yearly license; all of which licenses when granted by such city and duly obtained by the person or persons desiring the same, shall entitle them to carry on such business, trade, or profession in such city.

Sales and leases of city property.

§ 322. All sales or leases of property belonging to the city shall be by public auction to the highest bidder, and upon such terms and conditions as the council may by ordinance direct; and all contracts for supplies, of any kind, for more than five hundred dollars, shall be let to the lowest responsible bidder, after ten days' notice given by posting the same in three of the most public places in the city or by publishing the same in any newspaper printed and published in such city.

Licenses.

§ 323. Licenses shall be discriminating and proportionate to the amount of business; and it shall be the duty of the council, by ordinance, to classify all kinds of business licensed in accordance herewith.

Ordinances.

§ 324. The enacting clause of all ordinances shall be as follows: "The mayor and council of the city of — do ordain as follows." Every ordinance passed by the city council shall be presented to the mayor for his approval; if he approve it, he shall sign it; if not, he shall return it at the first meeting of the council held after five days thereafter, or at its next meeting; when the city council shall reconsider such ordinance, and if the same be approved by a vote of two-thirds of all the members elected, and not otherwise, the same shall take effect and stand as an ordinance of such city. All ordinances shall be published for one week in a newspaper printed and published in such city, as often during such period as such newspaper shall be published.

Fixing rate of taxation.

§ 325. The council shall, upon the first Monday of October, in each year, fix the rate of taxation to be levied upon all property, both real and personal, in said municipality necessary to raise sufficient revenue to carry on the various departments of the city government for the then ensuing year, not to exceed one dollar for each one hundred dollars upon the assessment-roll, and to pay the bonded and other indebtedness of said city. The said council must, upon fixing said amount, transmit a statement thereof to the county auditor. The action of the city council in fixing the rate of taxation for city purposes is a valid levy of the rate so fixed upon all property, both real and personal, in the said city, and borne upon the assessment-roll of said county, and has the effect provided in sections 3716, 3717, and 3718 of the Political Code, in regard to state and county taxes. The county auditor shall thereupon compute and enter, in a separate money column in the assessment-book, the respective sums, in dollars and cents, rejecting the fractions of a cent, to be paid as a tax on the property therein enumerated, for the purposes of such city government, and foot up the column,

are so laid out and opened, the provisions of this chapter shall be applicable thereto.

License on common carriers.

§ 333. The city council of said city shall have power to issue and collect an annual tax license on draymen, cabmen, omnibus proprietors, expressmen, and other common carriers doing business in the city, the proceeds of said licenses to be devoted to a street department fund for keeping in repair the streets in the city. Said annual license not to be more than twelve dollars nor less than eight dollars for such persons so licensed.

Widening streets.

§ 334. The city council is empowered to open, extend, and widen streets, and to modify the boundaries thereof within its corporate limits, and to determine the property benefited thereby, and to assess the expenses of such improvement upon the property benefited, as hereinafter provided.

Proceedings, how commenced.

§ 335. All proceedings under said power shall be commenced by petition of five or more residents and freeholders within the city, signed by the petitioners, addressed to the city council, and filed with the clerk of said council. Such petition shall contain:

1. The names of the petitioners, and a statement that each of the petitioners is a resident and freeholder within the city;
2. A statement that, in the opinion of the petitioners, the public interests require that the improvement asked for (describing it generally) should be made;
3. A request that the common council proceed to order the improvement made.

Duty of council.

§ 336. At the regular meeting next after the meeting at which the petition is presented to the council, or at any subsequent meeting to which the proceedings may be regularly adjourned, the said council may, by resolution duly passed, determine the lands to be benefited by the improvement asked for in the petition, and to be assessed for the expenses thereof. Said resolution shall contain a description of each lot, piece, or parcel of land necessary to be taken and condemned for such improvement, and shall also specify the exterior boundaries of the district of land benefited thereby, and to be assessed therefor, and shall direct the city engineer to make a survey and map of the lands described in the resolution, a copy of which resolution shall be forthwith transmitted by the clerk of said council to the said city engineer.

Duty of city engineer.

§ 337. It shall be the duty of the city engineer, immediately upon receiving a copy of the resolution mentioned in section 4, to survey the lands described in said resolution and make a map thereof, and to

return said map to said council within twenty (20) days from the receipt by him of said copy of the resolution; said map shall show each piece, tract, or parcel of land necessary to be taken and condemned for said improvement, and also the exterior boundaries of the district to be benefited by such improvement and to be assessed on account of the cost and expenses thereof, as declared in the resolution, and the area thereof, exclusive of public streets and alleys. Said city engineer shall have the right to enter upon the lands and make examinations and surveys thereof, and such entry shall constitute no cause of action in favor of the owners of said lands, except for injuries resulting from negligence, wantonness, or malice.

Preliminary resolution.

§ 338. The council, at its regular meeting next after the return of the map by the city engineer, shall pass a preliminary resolution, declaring the intention of the corporation to make the improvement asked for in the petition. Said resolution shall contain a description of each piece, lot, or tract of land necessary and sought to be taken and condemned for the improvement, and also the exterior boundaries of the district of lands to be benefited thereby, and assessed for the expenses thereof; the resolution shall also specify a time, not more than fifteen (15) days from the passage thereof, for the hearing by said council of objections to the proposed improvement, and said resolution shall be published in at least one daily paper printed and circulated in the city, daily (Sundays and nonjudicial days excepted), for at least ten (10) days prior to the time fixed for said hearing.

Objections.

§ 339. If a majority of the owners of the lands in area to be assessed for the expenses of said improvement shall, on or before the day fixed by said resolution for the hearing of objections, appear and protest against said improvement, the proceedings shall be discontinued; provided, however, that such protest must be in writing, and shall contain a description of the land claimed by each protestant; and provided further, that the council may, by a unanimous vote of all its members, approved by the mayor, proceed to cause such improvement to be made, notwithstanding such protest.

Final resolution.

§ 340. If the owners of a majority in area of the property to be assessed for the expenses of said improvement fail to appear and protest as provided in section 7, or if the council, by a unanimous vote, approved by the mayor, order said improvement to be made, said council must immediately pass a final resolution, declaring such determination. Such resolution shall refer to the said preliminary resolution, by its number, for a description of the lands necessary and sought to be taken and condemned for said improvement, and the district to be assessed for the expenses thereof.

Commissioners to assess damages.

§ 341. Immediately after the passage of such final resolution, the council shall apply to the superior court of the county in which such city is situated, either in term time or vacation, by petition, for the appointing of three commissioners to assess the compensation which shall be paid to the owners thereof for the lands sought to be taken for such improvement, and to assess upon the property within the district to be benefited thereby the costs of such improvement. Said petition shall recite all the proceedings had in the premises, and shall specify the exterior boundaries of the lands sought to be taken, and also the exterior boundaries of the district of lands to be benefited thereby, and assessed for the expenses thereof. A copy of the map made by the city engineer shall be annexed to said petition, and may be referred to in the petition for a description of the lands aforesaid.

Duty of court.

§ 342. Upon filing such petition, such court shall pass and take such jurisdiction of such proceeding, and such court, or a judge thereof, shall, by order, fix a day for the hearing of such petition, which shall be not less than ten, nor more than twenty days from the date of such order. Such order shall further direct notice of the time and place of such hearing to be given by the clerk by publication in two daily newspapers published in such city, and designated in such order, for at least a period of ten days in succession.

Requisites of notice.

§ 343. Such notice shall specify the exterior boundaries of the lands sought to be taken for such improvement, and of the lands declared to be profited thereby and to be assessed for the expenses thereof, and shall further state that the damages to which the owner or owners of the land sought to be taken may be entitled for the same will be inquired into and determined, and that such damages, together with the cost of the proceedings for the acquiring title to such lands, and making apportionment thereof, will be apportioned and assessed upon the lands to be benefited thereby, by commissioners to be appointed by such court, on the day fixed by such order for the hearing. Such notice shall be published daily for at least ten days (Sundays and nonjudicial days excepted) before such hearing.

Hearing.

§ 344. At the time fixed for the hearing, or at such other time as the hearing may be adjourned to, the court shall proceed to hear any person interested touching the regularity of the proceedings, and if satisfied that the proceedings have been regular, shall appoint three competent and disinterested commissioners. The court may, at any time, remove any or all such commissioners for cause, upon reasonable notice and hearing, and may fill the vacancies occurring among them from any cause. Any persons interested may object to the appointment of any person as commissioner, on one or more of the grounds specified

in section 641 of the Code of Civil Procedure, as grounds for the objection to the appointment of persons as referees.

Duty of commissioners.

§ 345. Commissioners shall be sworn to faithfully perform their duties according to the provisions of this chapter. They shall then proceed to view the lands mentioned and described in such resolution and petition, and may examine witnesses on oath, to be administered by any one of them, and shall keep minutes of the testimony so taken; they shall ascertain and appraise the value of the property sought to be taken for the improvements, and of all improvements thereon partaking of the realty, and of each and every estate therein; if it consist of different parcels, the value of each parcel and each estate, or interest therein, shall be separately appraised; if this property sought to be taken constitutes only a part of a larger parcel, the damages which will accrue to the portion not sought to be condemned or taken, by reason of the severance from the portion sought to be taken, and the construction of the improvement in the manner proposed shall be appraised by said commissioners; they shall also ascertain and determine, as near as may be, the entire costs of the proceedings for the opening, extension, or improvement aforesaid, including the costs of court and of commissioners; they shall then proceed to apportion and assess the whole amount of such costs and expenses, value of property sought to be taken, and damages to property not taken, upon the property within the district declared by the resolution of the council to be benefited by said improvement, and shall assess each tract, lot, piece, or parcel of land within said district in proportion to the benefits received by it from said improvement.

Report.

§ 346. The said commissioners, within a time to be fixed by the court, shall make a report of their proceedings, under their hands, or the hands of a majority of them, to the said court, in which report they shall describe, with common certainty, the several parcels of land sought to be taken for such improvement, and the names of the owners thereof, respectively, so far as they can be ascertained, designating unknown owners, if any such there be, and the sum of money which should be paid to each of said owners, as his or her compensation for the land necessary and sought to be taken and condemned for such improvement, or of his or her estate, therein; and in case only a part of a larger parcel has been taken for such improvement, and the remaining portion is damaged or benefited thereby, they shall describe such remaining portion, and specify the sum to be paid or assessed to the owner thereof, or such damages or benefits as the case may be; they shall also describe, with common certainty, the several parcels of land within the district deemed to be benefited by said improvement, and the names of the owners thereof, so far as they can be ascertained, designating unknown owners, if such there be, and the sum of money which is assessed upon each particular parcel, and which should be paid by the owner thereof.

Objections.

§ 347. Upon the filing of such report, the said court shall, by order, fix a day for hearing objections to the confirmation thereof, and shall direct notice of the time and place of said hearing to be given by the clerk, by publication in a daily newspaper published in said city, for at least ten days (Sundays and nonjudicial days excepted), prior to said day of hearing.

Hearing report.

§ 348. Upon the day fixed for the hearing, the court shall proceed to hear any person interested upon any question touching the regularity of the proceedings, the sufficiency of the compensation awarded, or the justice or equality of the assessment, and may confirm said report or set the same aside, or remand the same for correction or alteration in any particular. If the report be set aside, the matter may in like manner be referred to the same or new commissioners appointed by the court, who shall proceed as hereinbefore provided; if the report be remanded, it shall be corrected, or altered in any particular required by the court.

Compensation of commissioners.

§ 349. The commissioners shall be entitled to reasonable compensation for their services, to be certified to by the court, and taxed as part of the expenses of the proceeding.

Judgment, what to contain.

§ 350. Upon confirmation of the report of the commissioners, judgment shall be rendered by the court thereon, which judgment must describe each parcel of land taken for such improvement, and the amount to which the owner is entitled as compensation or damages for the taking thereof, and the name of such owner or owners, if known; and in case only a portion of a larger parcel is taken, such judgment must describe such remaining portion, and the amount, if anything, to which the owner thereof is entitled as damages; and must also describe each parcel of land assessed for the expenses of such improvement, and the amount so assessed upon each parcel respectively. Such judgment shall direct a sale of each parcel so assessed, or so much thereof as may be necessary to pay the amount of such assessment and expenses of sale, and the application of the proceeds of such sale to the payment of the expenses of such sale, and the amount of compensation and damages awarded by such judgment. Such judgment shall be a lien upon the property against which such assessment is made, and may be enforced by a sale of the property assessed, as hereinafter provided.

Enforcement of judgment.

§ 351. Within thirty days after the entry of such judgment, the persons liable must pay to the clerk of the court, for the benefit of the parties entitled thereto, the several amounts specified in such judgment, in default of which the respective parcels of land upon which such assessments have not been paid shall be sold by the sheriff of such county under a certified copy of such judgment, and in the manner provided

by law for the sale of property upon decree of foreclosure of mortgage.

Money, to whom paid.

§ 352. The moneys realized from such sale shall be paid by the officer making the same, to the clerk of the court, for the benefit of the parties entitled thereto.

Final order.

§ 353. Whenever the aggregate amount of damages or compensation awarded by such judgment shall have been paid to the clerk, either by voluntary payment or as moneys realized from sales under such judgment, the court must make and enter a final order or decree of condemnation of the lands taken for such improvement, which order or decree shall describe the property condemned and the purpose of such condemnation.

When title vests.

§ 354. A copy of such order or decree must be filed in the office of the recorder of such county, and thereupon, the property described therein shall vest in such city for the uses and purposes therein specified; and such city shall be entitled to and may take immediate possession thereof.

Payment of awards.

§ 355. Whenever the aggregate amount of damages or compensation awarded by such judgment shall have come to the hands of the clerk, he shall, upon the demand of any person entitled thereto, pay to said party the amount awarded to him or her by said judgment.

Where more than one claimant.

§ 356. If there is more than one claimant to any parcel of land taken for such improvement, or if the owner of any parcel is unknown, the amount awarded as damages or compensation for the taking thereof shall remain in court to be awarded to the true owner by due process of law.

Appeal.

§ 357. Any party feeling aggrieved by any proceedings, orders, or judgments of such court herein provided for may appeal to the supreme court, as in other cases.

Appointment of police.

§ 358. The city council shall not have power to appoint a greater number of policemen than shall be equal to one for every one thousand of the population of such city. No policeman or member of the fire department shall be removed from office except upon the order and direction of the mayor, and after charges in writing have been made against him, and evidence upon the same shall have been heard in public in the mode and manner to be prescribed by ordinance.

Commissioners to assess damages.

§ 341. Immediately after the passage of such final resolution, the council shall apply to the superior court of the county in which such city is situated, either in term time or vacation, by petition, for the appointing of three commissioners to assess the compensation which shall be paid to the owners thereof for the lands sought to be taken for such improvement, and to assess upon the property within the district to be benefited thereby the costs of such improvement. Said petition shall recite all the proceedings had in the premises, and shall specify the exterior boundaries of the lands sought to be taken, and also the exterior boundaries of the district of lands to be benefited thereby, and assessed for the expenses thereof. A copy of the map made by the city engineer shall be annexed to said petition, and may be referred to in the petition for a description of the lands aforesaid.

Duty of court.

§ 342. Upon filing such petition, such court shall pass and take such jurisdiction of such proceeding, and such court, or a judge thereof, shall, by order, fix a day for the hearing of such petition, which shall be not less than ten, nor more than twenty days from the date of such order. Such order shall further direct notice of the time and place of such hearing to be given by the clerk by publication in two daily newspapers published in such city, and designated in such order, for at least a period of ten days in succession.

Requisites of notice.

§ 343. Such notice shall specify the exterior boundaries of the lands sought to be taken for such improvement, and of the lands declared to be profited thereby and to be assessed for the expenses thereof, and shall further state that the damages to which the owner or owners of the land sought to be taken may be entitled for the same will be inquired into and determined, and that such damages, together with the cost of the proceedings for the acquiring title to such lands, and making apportionment thereof, will be apportioned and assessed upon the lands to be benefited thereby, by commissioners to be appointed by such court, on the day fixed by such order for the hearing. Such notice shall be published daily for at least ten days (Sundays and nonjudicial days excepted) before such hearing.

Hearing.

§ 344. At the time fixed for the hearing, or at such other time as the hearing may be adjourned to, the court shall proceed to hear any person interested touching the regularity of the proceedings, and if satisfied that the proceedings have been regular, shall appoint three competent and disinterested commissioners. The court may, at any time, remove any or all such commissioners for cause, upon reasonable notice and hearing, and may fill the vacancies occurring among them from any cause. Any persons interested may object to the appointment of any person as commissioner, on one or more of the grounds specified

in section 641 of the Code of Civil Procedure, as grounds for the objection to the appointment of persons as referees.

Duty of commissioners.

§ 345. Commissioners shall be sworn to faithfully perform their duties according to the provisions of this chapter. They shall then proceed to view the lands mentioned and described in such resolution and petition, and may examine witnesses on oath, to be administered by any one of them, and shall keep minutes of the testimony so taken; they shall ascertain and appraise the value of the property sought to be taken for the improvements, and of all improvements thereon partaking of the realty, and of each and every estate therein; if it consist of different parcels, the value of each parcel and each estate, or interest therein, shall be separately appraised; if this property sought to be taken constitutes only a part of a larger parcel, the damages which will accrue to the portion not sought to be condemned or taken, by reason of the severance from the portion sought to be taken, and the construction of the improvement in the manner proposed shall be appraised by said commissioners; they shall also ascertain and determine, as near as may be, the entire costs of the proceedings for the opening, extension, or improvement aforesaid, including the costs of court and of commissioners; they shall then proceed to apportion and assess the whole amount of such costs and expenses, value of property sought to be taken, and damages to property not taken, upon the property within the district declared by the resolution of the council to be benefited by said improvement, and shall assess each tract, lot, piece, or parcel of land within said district in proportion to the benefits received by it from said improvement.

Report.

§ 346. The said commissioners, within a time to be fixed by the court, shall make a report of their proceedings, under their hands, or the hands of a majority of them, to the said court, in which report they shall describe, with common certainty, the several parcels of land sought to be taken for such improvement, and the names of the owners thereof, respectively, so far as they can be ascertained, designating unknown owners, if any such there be, and the sum of money which should be paid to each of said owners, as his or her compensation for the land necessary and sought to be taken and condemned for such improvement, or of his or her estate, therein; and in case only a part of a larger parcel has been taken for such improvement, and the remaining portion is damaged or benefited thereby, they shall describe such remaining portion, and specify the sum to be paid or assessed to the owner thereof, or such damages or benefits as the case may be; they shall also describe, with common certainty, the several parcels of land within the district deemed to be benefited by said improvement, and the names of the owners thereof, so far as they can be ascertained, designating unknown owners, if such there be, and the sum of money which is assessed upon each particular parcel, and which should be paid by the owner thereof.

Objections.

§ 347. Upon the filing of such report, the said court shall, by order, fix a day for hearing objections to the confirmation thereof, and shall direct notice of the time and place of said hearing to be given by the clerk, by publication in a daily newspaper published in said city, for at least ten days (Sundays and nonjudicial days excepted), prior to said day of hearing.

Hearing report.

§ 348. Upon the day fixed for the hearing, the court shall proceed to hear any person interested upon any question touching the regularity of the proceedings, the sufficiency of the compensation awarded, or the justice or equality of the assessment, and may confirm said report or set the same aside, or remand the same for correction or alteration in any particular. If the report be set aside, the matter may in like manner be referred to the same or new commissioners appointed by the court, who shall proceed as hereinbefore provided; if the report be remanded, it shall be corrected, or altered in any particular required by the court.

Compensation of commissioners.

§ 349. The commissioners shall be entitled to reasonable compensation for their services, to be certified to by the court, and taxed as part of the expenses of the proceeding.

Judgment, what to contain.

§ 350. Upon confirmation of the report of the commissioners, judgment shall be rendered by the court thereon, which judgment must describe each parcel of land taken for such improvement, and the amount to which the owner is entitled as compensation or damages for the taking thereof, and the name of such owner or owners, if known; and in case only a portion of a larger parcel is taken, such judgment must describe such remaining portion, and the amount, if anything, to which the owner thereof is entitled as damages; and must also describe each parcel of land assessed for the expenses of such improvement, and the amount so assessed upon each parcel respectively. Such judgment shall direct a sale of each parcel so assessed, or so much thereof as may be necessary to pay the amount of such assessment and expenses of sale, and the application of the proceeds of such sale to the payment of the expenses of such sale, and the amount of compensation and damages awarded by such judgment. Such judgment shall be a lien upon the property against which such assessment is made, and may be enforced by a sale of the property assessed, as hereinafter provided.

Enforcement of judgment.

§ 351. Within thirty days after the entry of such judgment, the persons liable must pay to the clerk of the court, for the benefit of the parties entitled thereto, the several amounts specified in such judgment, in default of which the respective parcels of land upon which such assessments have not been paid shall be sold by the sheriff of such county under a certified copy of such judgment, and in the manner provided

by law for the sale of property upon decree of foreclosure of mortgage.

Money, to whom paid.

§ 352. The moneys realized from such sale shall be paid by the officer making the same, to the clerk of the court, for the benefit of the parties entitled thereto.

Final order.

§ 353. Whenever the aggregate amount of damages or compensation awarded by such judgment shall have been paid to the clerk, either by voluntary payment or as moneys realized from sales under such judgment, the court must make and enter a final order or decree of condemnation of the lands taken for such improvement, which order or decree shall describe the property condemned and the purpose of such condemnation.

When title vests.

§ 354. A copy of such order or decree must be filed in the office of the recorder of such county, and thereupon, the property described therein shall vest in such city for the uses and purposes therein specified; and such city shall be entitled to and may take immediate possession thereof.

Payment of awards.

§ 355. Whenever the aggregate amount of damages or compensation awarded by such judgment shall have come to the hands of the clerk, he shall, upon the demand of any person entitled thereto, pay to said party the amount awarded to him or her by said judgment.

Where more than one claimant.

§ 356. If there is more than one claimant to any parcel of land taken for such improvement, or if the owner of any parcel is unknown, the amount awarded as damages or compensation for the taking thereof shall remain in court to be awarded to the true owner by due process of law.

Appeal.

§ 357. Any party feeling aggrieved by any proceedings, orders, or judgments of such court herein provided for may appeal to the supreme court, as in other cases.

Appointment of police.

§ 358. The city council shall not have power to appoint a greater number of policemen than shall be equal to one for every one thousand of the population of such city. No policeman or member of the fire department shall be removed from office except upon the order and direction of the mayor, and after charges in writing have been made against him, and evidence upon the same shall have been heard in public in the mode and manner to be prescribed by ordinance.

Supply of gas and water.

§ 359. All gas and water pipes laid in any paved, macadamized, or graded street must be of sufficient capacity to afford a free supply of gas or water for the estimated necessities of such street, and the district to be supplied by such pipes, for a period of not less than five years from the time of laying the same; which estimate of necessity and capacity shall be made by the city engineer, and approved by the council. It shall be the duty of the council, by ordinance, to prescribe regulations for the laying of gas and water pipes in the public streets.

Article IV.—Executive Department.**Duty of mayor.**

§ 370. The mayor shall preside at all meetings of the city council, but the council shall elect a president pro tempore to preside during his absence. He shall communicate to the council semi-annually, or oftener if necessary a general statement of the situation and condition of the city, together with such recommendations relative thereto as he may deem expedient. He shall be vigilant and active in causing the ordinances of the city to be executed and enforced. He shall be the head of police, and shall exercise a supervision and control over the conduct of all subordinate officers, and receive and examine into all complaints preferred against any of them for violation or neglect of duty, and certify the same to the council. He shall sign all ordinances and contracts made on behalf of the city, and countersign all licenses and warrants on the treasury. He shall keep accounts current with every officer charged with the receipt or disbursement of money, and perform all the duties of an auditor. He shall perform such other duties as may be prescribed by law or ordinance.

Allowance of demands.

§ 371. Every demand upon the treasury, except for the salary of the mayor, must, before it can be paid, be presented to the mayor, to be allowed, who shall satisfy himself whether the money is legally due and remains unpaid, and whether the payment thereof from the treasury of the city is authorized by law, and out of what fund. If he allow it, he shall indorse upon it the word "Allowed," with the name of the fund out of which it is payable, with the date of such allowance, and sign his name thereto; but the allowance or approval of the mayor, or of the city council, or of any other board or officer, of any demand which upon the face of it appears not to have been expressly made by law payable out of the treasury or fund to be charged therewith, shall afford no warrant to the treasurer or other disbursing officer for paying the same. The demand of the mayor for his salary shall be audited and allowed by the president pro tempore of the city council.

Duty of chief of police.

§ 372. The chief of police shall execute, within the city, and return all process issued and directed to him by the city justices, or either of them, arrest all persons guilty of a breach of the peace, or of a viola-

tion of any ordinance of the council, and take them before the proper magistrate within the city; and do and perform such other duties as may be prescribed by ordinance or may be required by the mayor.

Effect of records of street superintendent.

§ 373. The records kept by the street superintendent of the city, and signed by him, shall have the same force and effect as other public records, and copies therefrom, duly certified, may be used in evidence with the same effect as the originals. The said records shall, during all office hours, be open to the inspection of any citizen wishing to examine them, free of charge.

Office of street superintendent.

§ 374. The street superintendent shall keep a public office in some convenient place to be designated by the city council, and such records as may be required by law. He shall superintend and direct the cleaning of all the sewers in the public streets, and the expense of the same shall be paid out of the street department fund, and perform all duties required by law or ordinance of such city.

Duty of street superintendent.

§ 375. It shall be the duty of the street superintendent to see that the laws, orders, and regulations relating to the public streets and highways are fully carried into execution, and that the penalties therefor are regularly enforced. He shall keep himself informed of the condition of all public streets and highways, and also of all public buildings, parks, lots, and ground of the city, as may be prescribed by the council; and should he fail to see the laws, orders, and regulations relative to the public streets and highways carried into execution, after notice from any citizen of a violation thereof, he and his sureties shall be liable upon his official bond to any person injured in person or property in consequence of such neglect.

No recourse on city for certain damages.

§ 376. If, in consequence of any graded street or public highway, improved under the provisions of this chapter, being out of repair, and in a condition to endanger persons or animals passing therein, any person while carefully using such street or public highway, and exercising ordinary care to avoid such danger, suffer damage to his person, or if any animals or other property, being lawfully ridden, driven, or conveyed through such street or public highway, be injured, lost, or destroyed through any such defect therein, no recourse for damages thus suffered shall be had against the city; but if such defect in such street or public highway shall have existed for a period of twenty-four hours or more after notice to the street superintendent, then the street superintendent, and also all other officers through whose official negligence such defect shall have remained unrepaired, shall jointly and severally be liable to the party injured for the damages so sustained.

City engineer, appointment of, and duties.

§ 377. The city council shall have power to appoint a city engineer, and by ordinance to prescribe his duties and fix his compensation, not to exceed eighteen hundred dollars per annum. It shall be the duty of the city engineer to do the surveying and other work necessary to be done by law or any ordinance of said city, and to survey, measure, and estimate the work done and to be done under contracts for grading streets; and every certificate of work done by him, signed in his official capacity, shall be prima facie evidence in all the courts of this state of the truth of its contents; he shall also keep a record of all surveys made by him.

Duties of treasurer.

§ 378. The treasurer shall receive and pay out all moneys belonging to the city, and keep an account of all receipts and expenditures, under such regulations as may be prescribed by ordinance; he shall make a monthly statement to the council of the receipts and expenditures of the preceding month, and in his capacity as city clerk he shall keep all the papers and documents belonging to the city, attend the meetings of the council, and keep a journal of their proceedings, and a record of all their ordinances, and shall do all other things required of him by ordinances.

Reports of officers.

§ 379. It shall be the duty of the several elected and appointed officers of said city, whenever required by the city council, to make reports, to the said council, and in the manner required of them, and in their reports to embody all the matters and information required pertaining to the duties of their respective offices.

Other necessary affairs.

§ 380. The city council may provide by ordinance for the election or appointment of any other officer or officers necessary for the good government of the city, and the proper administration of the public interest, and shall prescribe their duties and terms of office, and fix their compensation.

Article V.—Judicial Department.**Police court.**

§ 390. The judicial power of the city shall be vested in a police court, to be held therein by the city justices, or one of them, to be designated by the mayor, but either of said city justices may hold such court without such designation, and it is hereby made the duty of such city justices, in addition to the duties now required of them by law, to hold said police court.

Jurisdiction.

§ 391. The police court shall have exclusive jurisdiction of the following public offenses committed in the city:

1. Petit larceny;

2. Assault or battery, not charged to have been committed upon a public officer in the discharge of official duty, or with intent to kill;

3. Breaches of the peace, riots, affrays, committing willful injury to property, and all misdemeanors punishable by fine or by imprisonment, or by both such fine and imprisonment;

4. Of proceedings respecting vagrants, lewd or disorderly persons.

Jurisdiction.

§ 392. Said court shall also have exclusive jurisdiction of all proceedings for violation of any ordinance of said city, both civil and criminal, and of an action for the collection of any license required by any ordinance of said city.

Justices inhibited in certain cases.

§ 393. Neither of said justices shall sit in cases in which he is a party, or in which he is interested, or where he is related to either party by consanguinity or affinity within the third degree, and in case of the sickness or inability of the city justices, either of them may call in a justice of the peace residing in the county to act in his place and stead.

Powers of justices.

§ 394. Each of the city justices, while acting as judge of said court, shall also have power to hear cases for examination, and may commit and hold the offender to bail for trial in the proper court, and may try, condemn, or acquit, and carry his judgment into execution as the case may require, according to law, and punish persons guilty of contempt of court; and shall have power to issue warrants of arrests in case of a criminal prosecution for a violation of a city ordinance, as well as in case of the violation of the criminal law of the state; also all subpoenas, and all other processes necessary to the full and proper exercise of his powers and jurisdiction; and in such of the cases enumerated in this section in which trial by jury is not secured by the constitution of the state, he may proceed to judgment in the first instance without a jury, but on appeal the defendant shall be entitled to trial by jury in the superior court.

Clerk of court.

§ 395. The police court shall have a clerk, to be appointed by the city council, upon the nomination of the mayor, who shall hold office during the pleasure of the council. The clerk shall keep a record of the proceedings of and issue all process ordered by the city justices, or either of them, or by said police court, and receive and pay weekly into the city treasury all fines imposed by said court. He shall also each month render to the mayor (as auditor) an exact and detailed account, upon oath, of all fines imposed and collected, and all fines imposed and uncollected, since his last report. He shall prepare bonds, justify bail, when the amount has been fixed by either of the city justices or said court, in cases not exceeding one hundred dollars, and may administer oaths. The clerk shall remain at the courtroom of said

court during business hours, and during such reasonable times thereafter as may be necessary for discharging his duty. Before receiving his salary, each or any month, he shall make and file with the auditor an affidavit that he has deposited with the city treasurer all moneys that have come to his hands belonging to the city. Any violation of this provision shall be a misdemeanor. He shall give a bond in the sum of five thousand dollars, with at least two sureties to be approved by the mayor, conditioned for the faithful discharge of the duties of his office.

Disposition of moneys.

§ 396. All fines and other moneys collected on behalf of the city in the police court shall be paid into the city treasury on the first Tuesday of each month; and all bills for fees and costs due the officers of said court shall be reported to the city council each month.

Dockets.

§ 397. The city council shall furnish a suitable room for the holding of said court, and shall also furnish the necessary dockets and blanks. One docket shall be styled "The City Criminal Docket," in which all the criminal business shall be recorded, and each case shall be alphabetically indexed; another docket shall be styled "The City Civil Docket," and it shall contain each and every civil case in which the city is a party, or which is prosecuted or defended for her interest, and each case shall be properly indexed. A third docket shall contain all the other business appertaining to the office of said city justice, and in all cases the docket shall contain all such entries as are required by law to be made in justices' dockets; and in any case tried before the court, the docket must show what duties were performed by any officer of the court, and the amount of the fees due to the officer for such services, and what amount of money, if any, collected.

Court, when open.

§ 398. The police court shall be always open, except upon nonjudicial days, and then for such purposes only as by law permitted or required of other courts of this state.

Appeals.

§ 399. Appeals may be taken from any judgment of said police court, to the superior court of the county in which such city may be situated, in the same manner in which appeals are taken from justices' courts in like cases.

Place of imprisonment.

§ 400. In all cases of imprisonment of persons convicted in said police court of any offense committed in the city, the persons so to be imprisoned, or by ordinance required to labor, shall be imprisoned in the city jail, or if required to labor, shall labor in the city.

Seal.

§ 401. Said court shall have a seal, to be furnished by the city.

Monthly report.

§ 402. The city justices shall, on the first Tuesday of each month, make to the city council a full and complete report of all the cases, civil and criminal, in which the city has an interest, or which are required to be entered in the city civil docket, or the city criminal docket; such report to be made upon blanks to be furnished by the city council, and in such form as they may require.

Transcripts and Warrants.

§ 403. Certified transcripts of the dockets, made by the clerk of said court, under the seal of said court, shall be evidence in any court of this state of the contents of said docket; and all warrants and other process issued out of said court, and all acts done by said court, and certified under its seal, shall have the same force and validity in any part of this state as though issued or done by any court of record of this state.

Article VI.—Educational Department.**Board of education.**

§ 410. The government of the school department of the city shall be vested in a board of education, to consist of seven members, to be called school directors. One school director shall be elected from each ward at the regular municipal election, by the vote of the city at large, and shall hold office for the term of four years, and until his successor is elected and qualified; provided, that the first board of education elected under the provisions of this chapter shall, at their first meeting, so classify themselves by lot as that three of their number shall go out of office at the expiration of two years, and four at the expiration of four years.

Organization.

§ 411. The board of education shall meet on the first Monday after their election, and elect one of their number president, and shall hold meetings at least once in each month thereafter at such times as shall be determined by a rule of said board. A majority of all the members elected shall constitute a quorum for the transaction of business, but a smaller number may adjourn from time to time. The board may determine the rules of its proceedings. Its sessions shall be public, and its records shall be open to public inspection. The board shall also have power to fill all vacancies occurring in the board until the next regular municipal election.

Power of board.

§ 412. The board of education shall have sole power:

1. To establish and maintain public schools, and to establish school districts, and to fix and alter the boundaries thereof.

Employees.

2. To employ and dismiss teachers, janitors, and school-census marshals, and to fix, alter, allow and order paid their salaries or compen-

after due public notice published for not less than ten days in one daily paper of the city.

No director or superintendent to be a party.

§415. No school director or superintendent shall be interested in any contract pertaining in any manner to the school department of said city. All contracts in violation of this section are declared void, and any director or superintendent violating or aiding in violating the provisions of this section shall be deemed guilty of misdemeanor, and shall be punished by fine of not less than one hundred dollars nor more than one thousand dollars.

City board of examiners.

§416. No teacher shall be employed in any of the public schools without having a certificate issued under the provisions of this chapter. For the purpose of granting the certificates required, the board of education shall appoint a city board of examination. The city board of examination shall consist of the school superintendent and four other persons, residents of such city, at least two of whom shall be experienced teachers. The members of the city board of examination shall receive for their services such compensation as may be fixed by the board of education. Such city board of examination shall have power:

Rules.

First. To adopt rules and regulations not inconsistent with the laws of this state for its own government, and for the examination of teachers.

Examination.

Second. To examine applicants, and to prescribe a standard of proficiency which will entitle the person examined to a certificate.

Certificates.

Third. To grant city certificates of three grades:

1. High school certificates, valid for six years, and authorizing the holder to teach any primary, grammar, or high school in such city;
2. City certificates, first grade, valid for four years, and authorizing the holder to teach any primary or grammar school in such city;
3. City certificates, second grade, valid for two years, and authorizing the holder to teach any primary school in such city;

Fourth. Without examination, to grant city certificates and fix the grade thereof to the holders of state life diplomas, state educational diplomas, state normal school diplomas, state university diplomas (when recommended by the faculty of the university), state certificates, city certificates granted in other cities of this state, and life diplomas, and state normal school diplomas of other states;

Fifth. To revoke or suspend for immoral or unprofessional conduct, profanity, intemperance, or evident unfitness for teaching, any certificate granted by them.

Secretary.

§ 417. The school superintendent shall act as secretary and book-keeper of the board of education, and perform all clerical duties required by such board. In the absence of the superintendent, the board of education may appoint one of their own number to act as secretary. The school superintendent may appoint an assistant at a salary of one hundred dollars per month. The superintendent may, for a good and sufficient cause, provisionally suspend any teacher employed in the schools of such city until the next meeting of the board of education.

Superintendent's reports.

§ 418. The superintendent shall report to the board of education annually, and at such other times as they may require, all matters pertaining to the expenditures, income and condition and progress of the public schools of said city during the preceding year, with such recommendations as he may deem proper.

Duty of superintendent.

§ 419. It shall be the duty of the superintendent to visit and examine each school at least once a month, to observe, and cause to be observed, such general rules for the regulation and government and instruction of the schools, not inconsistent with the laws of the state, as may be established by the board of education; to attend the sessions of the board, and inform them at each session of the condition of the public schools, schoolhouses, school fund, and other matters connected therewith, and to recommend such measures as he may deem necessary for the advancement of education in the city. He shall acquaint himself with all the laws, rules, and regulations governing the public schools in said city, and the judicial decisions thereon, and give advice on subjects connected with the public schools, gratuitously, to officers, teachers, pupils, and their parents and guardians.

Vacancy.

§ 420. In case of vacancy in the office of superintendent, the board of education shall have power to fill the vacancy until the next ensuing municipal election.

School fund.

§ 421. The school fund of the city shall consist of all moneys received from the state school fund; of all moneys arising from taxes which shall be levied annually by the city council of the city for school purposes; of all moneys arising from the sale, rent, or exchange of any school property, and of such other moneys as may, from any source whatever, be paid into said school fund; which fund shall be kept separate and distinct from all other moneys, and shall only be used for school purposes under the provisions of this chapter. If, at the end of any fiscal year, any surplus remains in the school fund, such surplus money shall be carried forward to the school fund of the next fiscal

year, and shall not be, for any purpose whatever, diverted or withdrawn from said fund, except under the provisions of this chapter.

School fund, how expended.

§ 422. The said school fund shall be used and applied by said board of education for the following purposes, to wit:

1. For the payment of the salaries or wages of teachers, janitors, school-census marshals, and other persons who may be employed by said board;

2. For the erection, alteration, repairs, rent, and furnishing of school-houses;

3. For the purchase money or rent of any real or personal property purchased or leased by said board;

4. For the insurance of all property;

5. For the discharge of all legal encumbrances on any school property;

6. For lighting schoolrooms, and the offices and rooms of the superintendent and board of education;

7. For supplying the schools with fuel, water, apparatus, blanks, blank-books, and necessary school appliances, together with books for indigent children;

8. For supplying books, printing and stationery for the use of the superintendent and board of education, and for the incidental expenses of the board and department;

9. For the payment of the salary of the superintendent and assistant superintendent;

10. For grading and improving all school lots, and for grading, sewer-ing, planking, or paving and repairing streets, and constructing and repairing sidewalks in front thereof.

Claims.

§ 423. All claims payable out of the school fund shall be filed with the secretary of the board, and after they shall have been approved by a majority of all the members elect of said board, upon a call of the ayes and noes, which shall be recorded, they shall be signed by the president of the board and by the superintendent, and be sent to the city treasurer. Every demand shall have indorsed upon it a certificate of its approval. All demands for salaries shall be paid monthly.

Debt not to be in excess of income.

§ 424. All demands authorized by this article shall be paid by the city treasurer from the school fund, when the same shall be presented to him, ordered paid, and approved by the board; provided, that the said board shall not have power to contract any debt or liabilities, in any form whatsoever, against the said city, in contravention of this article, or exceeding in any year the income and revenue provided for the school fund for such year.

Auditor to certify.

§ 425. It shall be the duty of the auditor of the county in which any such city may be situated, upon the first Monday in each month, and at such other times as he may deem proper, to certify in duplicate to the superintendent of schools of such county, the amount of school moneys at that time in the county treasury, and the amount received during the previous month. The county superintendent shall, upon receipt of such certificates, indorse upon one of them the amount of such moneys to which the common schools in such city are entitled. The certificate so indorsed shall at once be returned to said auditor, who shall direct upon the same the county treasurer to pay the sum designated upon such certificate to the treasury of such city for the use of the school fund thereof.

Treasurer to pay.

§ 426. The treasurer of such county shall thereupon pay to the treasurer of such city the sum directed by the auditor as above provided; and when said moneys are placed in such city school fund, they shall be used in precisely the same manner as moneys raised by city school taxes in such city; provided, that the entire revenue derived by such city from the state school fund, and the state school tax, shall be applied by said board of education exclusively to the support of primary and grammar schools.

CHAPTER IV.**Municipal Corporations of the Third Class.**

(A charter for cities having a population of more than 15,000 and not exceeding 30,000.)

Article I.—General Powers.**Third class.**

§ 500. Every municipal corporation of the third class shall be entitled the city of — (naming it), and by such name shall have perpetual succession, may sue and be sued in all courts and places, and all proceedings whatever; shall have and use a common seal, alterable at the pleasure of the city authorities, and may purchase, lease, receive, hold, and enjoy real and personal property, and control and dispose of the same for the common benefit.

Article II.—General Provisions Relating to Officers.**City officers.**

§ 501. The government of such city shall be vested in a mayor; a common council, to consist of seven aldermen; a board of education, to consist of seven school directors; a police judge; an assessor; a clerk, who shall be ex-officio auditor; a treasurer; a superintendent of streets; a tax and license collector; a water-rate collector; a city attorney, and such other and inferior officers as the common council may appoint.

Election and tenure.

§ 502. The aldermen, mayor, police judge, city attorney, and assessor shall be elected by the qualified electors of such city, at a general municipal election to be held therein on the second Tuesday in March, in each even-numbered year. The mayor, police judge, city attorney, and assessor shall hold office for the period of two years from and after the Monday next succeeding the day of such election, and until their successors are elected and qualified. The members of the common council and board of education shall hold office for the period of four years from and after the Monday next succeeding the day of such election, and until their successors are elected and qualified; provided, that the first common council elected under the provisions of this chapter shall, at their first meeting, so classify themselves by lot as that three of their number shall go out of office at the expiration of two years, and four at the expiration of four years; and provided further, that the first board of education elected under the provisions of this chapter shall, at their first meeting so classify themselves by lots as that three of their number shall go out of office at the expiration of two years, and four at the expiration of four years.

Other officers appointed.

§ 503. All other officers, except as otherwise in this chapter provided, shall be appointed by the common council, upon the nomination of the mayor, and shall hold office for the period of two years from and after the date of such appointment, and until their successors are appointed, elected, and qualified.

Bonds.

§ 504. The common council shall, by ordinance, determine what officers shall give bonds for the faithful performance of their duties, and fix the amount of such bond; and each of such officers shall, before entering upon the duties of his office, execute a bond to such city in such penal sum as the common council by ordinance may determine, conditioned for the faithful performance of his duties, including in the same bond the duties of all offices of which he is made by this chapter ex-officio incumbent. Such bonds shall be approved by the common council. All bonds, when approved, shall be filed with the clerk, except the bond of the clerk, if any, which shall be filed with the mayor. All the provisions of any law of this state relating to the official bonds of officers shall apply to such bonds except as herein otherwise provided. Every officer of such city, before entering upon the duties of his office, shall take and file with the clerk the constitutional oath of office.

Vacancies.

§ 505. Any vacancy occurring in any of the offices provided for in this chapter, except in the office of school director, shall be filled by appointment by the common council upon the nomination of the mayor, but if such office be elective, such appointee shall hold office only until

the next regular election, at which time a person shall be elected to serve for the remainder of such unexpired term.

Compensation.

§ 506. The aldermen and school directors shall receive no compensation whatever. The annual salaries of other officers shall be as follows: Mayor, one thousand two hundred dollars; police judge, one thousand eight hundred dollars; assessor, one thousand eight hundred dollars; city attorney, one thousand five hundred dollars; street superintendent, one thousand two hundred dollars; clerk and auditor, one thousand five hundred dollars; tax and license collector, one thousand two hundred dollars; treasurer, one thousand dollars; water-rate collector, one thousand two hundred dollars; school superintendent, one thousand five hundred dollars; all of which salaries shall be paid monthly.

Elections.

§ 507. All elections in such city shall be held in accordance with the general election law of the state, so far as the same may be made applicable; and no person shall be entitled to vote at such election unless he shall be a qualified elector of the county, enrolled upon the great register thereof, and shall have resided in such city for at least thirty days next preceding such election. The common council shall give such notice of each election as may be prescribed by ordinance, shall appoint boards of election, and fix their compensation, and establish and change election precincts and polling places; provided, that no part of any ward less than the whole thereof shall be attached to any other ward, or part thereof, in forming election precincts. At any municipal election the last printed great register of the county shall be used, and any elector whose name is not upon such printed register shall be entitled to vote upon producing and filing with the board of election a certificate, under the hand and official seal of the county clerk, showing that his name is registered and uncanceled upon the great register of such county, provided that he is otherwise entitled to vote.

Eligibility to office.

§ 508. No person shall be eligible to or hold any office in such city, whether filled by election or appointment, unless he be a resident and elector therein, and shall have resided in such city for one year next preceding the date of such election or appointment; provided, however, that the provisions of this section shall not apply to school superintendents or school teachers. One alderman and one school director shall be elected from each ward, and the person so elected must be a resident of the ward from which he is so elected, and continue to be such resident during his term of office, and if he shall fail to so continue a resident of such ward, his office shall, by reason thereof, immediately become vacant.

Free library.

§ 509. The trustees of any free public library created or existing in such city under the provisions of an act entitled "An act to establish

free public libraries and reading-rooms," approved April twenty-sixth, eighteen hundred and eighty, shall be appointed by the council in the same manner as other officers are appointed under the provisions of this chapter, anything in the provisions of said act to the contrary notwithstanding.

Article III.—Legislative Department.

Common council—Meetings.

§ 520. The common council shall meet on the Monday next succeeding the date of said general municipal election, and shall hold regular meetings at least once in each month, at such times as they shall fix by ordinance. Special meetings may be called at any time by the mayor, or by three aldermen, by written notice delivered to each member at least three hours before the time specified for the proposed meeting. All meetings of the common council shall be held within the corporate limits of the city, at such place as may be designated by ordinance, and shall be public.

Mayor to preside.

§ 521. At any meeting of the common council, a majority of the aldermen shall constitute a quorum for the transaction of business, but a less number may adjourn from time to time, and may compel the attendance of absent members in such manner and under such penalties as may be prescribed by ordinance. The mayor shall preside at all meetings of the council, and in case of his absence, the council may appoint a president pro tem.; and in case of the absence of the clerk, the mayor or president pro tem. shall appoint one of the members of the council clerk pro tem.

Rules.

§ 522. The common council shall judge of the qualifications of its members, and of all election returns, and determine contested elections of all city officers. They may establish rules for the conduct of their proceedings, and punish any member or other person for disorderly behavior at any meeting. They shall cause the clerk to keep a correct journal of all their proceedings, and, at the desire of any member, shall cause the ayes and noes to be taken on any question, and entered on the journal.

Light and water ordinances.

§ 523. No ordinance, and no resolution or order for the payment of money, for granting any franchise, for lighting or watering streets, or for supplying water for municipal purposes, shall be passed by the common council on the day of its introduction, nor within five days thereafter, nor at any other than a regular meeting; and no ordinance, and no such resolution or order, shall have any validity or effect unless passed by the votes of at least four aldermen and approved by the mayor; provided, that if the mayor shall neglect or refuse to approve the same within five days, then the same may be passed by the votes of five aldermen, and shall then take effect as if approved by the mayor.

Powers of council.

§ 524. The common council of such city shall have power:

1. To pass ordinances not in conflict with the constitution and laws of this state, or of the United States.

Real estate.

2. To purchase, lease, or receive such real estate and personal property as may be necessary or proper for municipal purposes, and to control, dispose of, and convey the same for the benefit of the city; provided, that they shall not have power to sell or convey any portion of any waterfront.

Water supply.

3. To acquire, construct, repair, and manage pumps, aqueducts, reservoirs, and other works necessary or proper for supplying the city with water.

Streets.

4. To establish, lay out, alter, open, keep open, improve, and repair streets, sidewalks, alleys, bridges, squares, and other public highways and places within the city and to drain, sprinkle, and light the same; to remove all obstructions therefrom; to establish the grades thereof; to grade, pave, macadamize, gravel, and curb the same in whole or in part, and to construct gutters, culverts, sidewalks and cross-walks therein or upon any part thereof; to cause to be planted, set out, and cultivated, shade trees therein; and generally manage and control all such highways and places.

Sewers.

5. To construct and maintain drains and sewers.

Extinguishment of fires.

6. To provide fire-engines and all other necessary or proper apparatus for the prevention and extinguishment of fire, and to construct and maintain telegraph and telephone lines for fire and police purposes.

Poll-tax.

7. To impose on and collect from every male inhabitant between the ages of twenty-one and sixty years an annual street poll-tax not exceeding two dollars; and no other road poll-tax shall be collected within the limits of such city.

Dog tax.

8. To impose and collect an annual tax, not exceeding two dollars, on every dog owned or harbored within the limits of the city; and no other dog tax shall be collected within the limits of such city.

Property tax.

9. To levy and collect annually a property tax, not exceeding one dollar on each one hundred dollars of the assessed value of all real and personal property within such city, which said tax shall be apportioned

as follows: For the general fund, not exceeding fifty cents on each one hundred dollars; for the road fund, not exceeding twenty-five cents on each one hundred dollars; and for the school fund, not exceeding twenty-five cents on each one hundred dollars; each of which funds shall be kept separate from all others.

Licenses.

10. To license, for purposes of regulation and revenue, all and every kind of business authorized by law, and transacted or carried on in such city, and all shows, exhibitions, and lawful games carried on therein; to fix the rates of license tax upon the same, and to provide for the collection of the same by suit or otherwise.

Rivers.

11. To improve the rivers and streams flowing through such city, or adjoining the same; to widen, straighten, and deepen the channels thereof, and remove obstructions therefrom; to improve the waterfront of the city; to construct and maintain embankments and other works to protect such city from overflow; and to bridge any creek or river so as not to interfere with navigation.

Public buildings.

12. To erect and maintain buildings for municipal purposes.

Tracks and pipes.

13. To permit, under restrictions as they may deem proper, the laying of railroad tracks and the running of cars drawn by horses, steam, or other motive power thereon, and the laying of gas and water pipes in the public streets, and the construction and maintenance of telegraph and telephone lines therein.

Ward division.

14. To divide the city, by ordinance, into seven wards as nearly equal in population as may be, to fix the boundaries thereof, and to change the same from time to time; provided, that no change in the boundaries of any ward shall be made within sixty days next before the date of said general municipal election, nor within twenty months after the same shall have been established or altered.

Fire department.

15. To establish and regulate a fire department and a police department, to appoint and remove the officers and employees thereof, and to prescribe their duties and fix and order paid their salaries and compensation.

Subordinate officers.

16. To appoint and remove such subordinate officers as they may deem proper, and to fix their duties and compensation.

Imposition of penalties.

17. To impose fines, penalties, and forfeitures for any and all violations of ordinances; and for any breach or violation of any ordinance, to

fix the penalty by fine or imprisonment, or both; but no such fine shall exceed five hundred dollars, nor the term of such imprisonment exceed six months.

Prison labor.

18. To cause all persons imprisoned for violation of any ordinance to labor on the streets or other public property or works within the city.

Other acts.

19. To do and perform any and all other acts and things necessary or proper to carry out the provisions of this chapter.

Enacting clause.

§ 525. The enacting clause of all ordinances shall be as follows: "The mayor and common council of the city of — do ordain as follows." Every ordinance shall be signed by the mayor, attested by the clerk, and published at least five times in a newspaper published in such city.

Common council to audit.

§ 526. All demands against such city, except for school purposes, shall be presented to and audited by the common council, in accordance with such regulations as they may by ordinance prescribe; and upon the allowance of any such demand, the mayor shall draw a warrant upon the treasurer for the same, which warrant shall be countersigned by the clerk, and shall specify for what purpose the same is drawn, and out of what fund it is to be paid.

No debt in excess of available money.

§ 527. The common council shall not create, audit, allow, or permit to accrue any debt or liability in excess of the available money in the treasury that may be legally apportioned and appropriated for such purposes; provided, that any city, during the first year of its existence under this act, may incur such indebtedness or liability as may be necessary, not exceeding in all the income and revenue provided for it for such year; nor shall any warrant be drawn, or evidence of indebtedness be issued, unless there be at the time sufficient money in the treasury legally applicable to the payment of the same, except as hereinafter provided.

Indebtedness in excess to be decided by election.

§ 528. If, at any time, the common council shall deem it necessary to incur any indebtedness in excess of the money in the treasury applicable to the purpose for which such indebtedness is to be incurred, they shall give notice of a special election by the qualified electors of the city, to be held to determine whether such indebtedness shall be incurred. Such notice shall specify the amount of indebtedness proposed to be incurred, the purpose or purposes of the same, and the amount of money necessary to be raised annually by taxation for an interest and sinking fund, as hereinafter provided. Such notice shall be published for at least three weeks in some newspaper published in such city; and no other question or matter shall be submitted to the electors

at such election. If, upon a canvass of the votes cast at such election, it appear that not less than two-thirds of all the qualified electors voting at such election shall have voted in favor of incurring such indebtedness, it shall be the duty of the common council to pass an ordinance providing for the mode of creating such indebtedness, and of paying the same; and in each ordinance provision shall be made for the levy and collection of an annual tax upon all the real and personal property, subject to taxation within such city sufficient to pay the interest on such indebtedness as it falls due; and also to constitute a sinking fund for the payment of the principal thereof, within a period of not more than twenty years from the time of contracting the same. It shall be the duty of the common council in each year thereafter, at the time at which other taxes are levied, to levy a tax sufficient for such purpose, in addition to the taxes by this chapter authorized to be levied. Such tax, when collected, shall be kept in the treasury as a separate fund, to be inviolably appropriated to the payment of the principal and interest of such indebtedness.

Violation of ordinances.

§ 529. The violation of any ordinance of such city shall be deemed a misdemeanor, and may be prosecuted by the authorities of such city in the name of the people of the state of California, or may be redressed by civil action, at the option of said authorities. Any person sentenced to imprisonment for the violation of an ordinance may be imprisoned in the city jail; or, if the common council by ordinance shall so prescribe, in the county jail of the county in which such city may be situated, in which case the expense of such imprisonment shall be a charge in favor of such county and against such city.

Nuisances.

§ 530. Every act or thing done or being within the limits of such city, which is or may be declared by law or by any ordinance of such city to be a nuisance shall be and is hereby declared to be a nuisance, and shall be considered and treated as such in all actions and proceedings whatever; and all remedies which are or may be given by law for the prevention and abatement of nuisances shall apply thereto.

System of street work.

§ 531. The common council are authorized and empowered to provide, by ordinance, a system for doing any or all work in or upon the streets, highways, and public places of such city, and for making therein street improvements and repairs, and for doing any or all work authorized by subdivisions 4 and 5 of section 524 of this act, and for the payment of the cost and expenses thereof, either by the levy and collection of special assessments therefor, in proportion to benefits, upon the property to be benefited thereby, or by payments made out of the road fund of such city, or by both; provided, that in all cases where more than one-half of the expense of any such improvement, except the construction of a sewer or drain, exceeding in amount the sum of one thousand

dollars, is to be defrayed by special assessment, the common council shall first adopt a resolution, which shall be entered upon their journal, declaring their intention to make such improvement, and fixing a time at which objections to the making of such improvement will be considered. Such resolution shall also designate the boundaries of the district to be affected or benefited by such improvement. Upon adopting such resolution, the common council shall give notice of such intention, which notice shall be published for twenty days in a newspaper printed and published in such city. Such notice shall describe the improvement so proposed to be made, and state the estimated cost thereof, and designate the time set for such hearing, and shall refer to such resolution so entered upon the journal for such description of boundaries. If, at or before the time so fixed, written objections to such improvement, signed by the owners of two-thirds in value of the property so to be affected or benefited, as shown by the last preceding city assessment-roll, be not filed with the clerk, the common council shall be deemed to have acquired jurisdiction to order the making of such improvement. Any such special assessment made and levied to defray the cost and expenses of any such work, together with any percentage imposed for delinquency and the costs of collection, shall constitute a lien upon and against the property upon which such assessment is made and levied, from and after the date of the order for such assessment; which lien may be enforced by a summary sale of such property, and the execution and delivery of all necessary certificates and deeds therefor, under such regulations as may be prescribed by ordinance, or by an action in any court of competent jurisdiction to foreclose such lien; provided, that any property sold to satisfy any such lien shall be subject to redemption within the time and in the manner provided, or that may hereafter be provided by law for the redemption of property sold for taxes.

Right of way.

§ 532. The common council are authorized and empowered to provide by ordinance for the establishing, laying out, extending, and widening streets and other public highways and places within the city, and for taking private property therefor, and for taking private property for the purpose of rights of way for drains, sewers, and aqueducts, and for the purpose of widening and straightening the channels of streams, and the improvement of water fronts; but no private property or right of way over or through the same shall be taken without the consent of the owner thereof until a just compensation for the same shall be ascertained and paid to such owner, or into court for his use. If the owner of any parcel of land proposed to be taken for any such improvement shall be dissatisfied with the amount of compensation awarded by said council for the taking of such parcel, he may, within twenty days after the date of such award, commence an action against such city in any court of competent jurisdiction within the city, township, or county, to recover such amount of compensation as he may consider himself entitled to. The amount of compensation ascertained and awarded in such

action shall be deemed and taken to be the amount of compensation to which such person will be entitled if such improvement be made. If such person fail to recover in such action a greater amount of compensation than was so awarded by said council, he shall not recover costs but shall pay costs to such city. Any owner of or person interested in any such parcel of land, who shall fail to commence such action within the time herein limited, shall be deemed to have waived his right in that behalf, and to have assented to and ratified the award of said council. The common council shall not acquire jurisdiction to exercise any of the powers hereinbefore in this section enumerated, until a petition in writing therefor is first presented to said council, signed by at least twenty inhabitants of said city, taxable therein for municipal purposes. Such petition must describe generally the street, highway, or public place proposed to be laid out or established, or the proposed alteration by widening or extending the same, or by widening or straightening the channels of streams, or by the improvement of waterfronts; or if a right of way is sought for drains, sewers, or aqueducts, such petition shall describe the proposed route for the same. Such petition shall be heard at a regular meeting of the council, notice of such hearing being given by the clerk by publication in a newspaper published in such city, for a period of three weeks before such hearing. Such notice shall be deemed to give said council full jurisdiction over the subject matter, and over the person of every owner of or person interested in any parcel of land to be taken or assessed for any such improvement; and every person interested, from and after the expiration of such publication, shall be deemed to have notice of all subsequent proceedings; provided, that nothing herein contained shall be construed to prevent such council from giving such other or further notice as they may deem proper. At the time fixed in such notice, or at such time to which such hearing may be postponed, the council shall proceed to hear and determine the prayer of such petition pursuant to such rules and regulations as may be prescribed by such ordinance. Such system, so established by ordinance, may provide for the payment of such compensation, either by the levy and collection of special assessments therefor, in proportion to benefits upon the property to be affected or benefited by any such improvement, or by payments made out of the street fund, or river and waterfront improvement fund of such city, or by both. Any such special assessment made and levied to provide means for the payment of any such compensation and the cost of ascertaining the same, together with any percentage imposed for delinquency and the costs of collection, shall constitute a lien upon and against the property upon which such assessment is made and levied, from and after the date of the order for such assessment; which lien may be enforced by a summary sale of such property, and the execution and delivery of all necessary certificates and deeds therefor, under such regulations as may be prescribed by ordinance, or by an action in any court of competent jurisdiction to foreclose such lien; provided, that any property sold to satisfy any such lien shall be subject to redemption within the time and in the manner provided or

that may hereafter be provided by law for the redemption of property sold for taxes.

Taxes and tax sales.

§ 533. The common council shall have power, and it shall be their duty, to provide by ordinance for the assessment, levy, and collection of all city taxes, which shall conform, as nearly as the circumstances of the case may permit, to the provisions of the laws of this state in reference to the assessment, levy, and collection of state and county taxes, except as to the times for such assessment, levy, and collection, and except as to the officers by whom such duties are to be performed. All taxes assessed, together with any percentage imposed for delinquency and the costs of collection, shall constitute liens on the property assessed from and after the first Monday in March in each year; which liens may be enforced by a summary sale of such property, and the execution and delivery of all necessary certificates and deeds therefor, under such regulations as may be prescribed by ordinance, or by actions in any court of competent jurisdiction to foreclose such liens; provided, that any property sold for such taxes shall be subject to redemption within the time and in the manner provided or that may hereafter be provided by law for the redemption of property sold for state or county taxes. All deeds made upon any sale of property for taxes or special assessments under the provisions of this chapter shall have the same force and effect in evidence as is or may hereafter be provided by law for deeds for property sold for nonpayment of state or county taxes.

Laws concerning indebtedness to continue in force.

§ 534. No money shall be expended or drawn out of the street fund for any but street and sewer purposes, and no money shall be expended or drawn out of the school fund for any but school purposes. Whenever any city organizing under this act has a bonded indebtedness contracted or issued under any law of this state, all the provisions of such laws in regard to the levying, collection, and disposition of taxes and revenues for the payment of such indebtedness and the interest thereon, shall continue in force, and the taxes levied and revenues raised for the payment of the interest and principal of such indebtedness shall be in addition to the taxes provided by section 524 of this act, and the common council of said city, organizing under this act, is hereby authorized and empowered to levy and collect such taxes and apportion such revenues for the payment of such indebtedness and interest, in addition to the limit of taxation hereinbefore prescribed in this act; and nothing in this chapter shall be construed to prevent any city from levying and collecting the tax authorized by the act entitled, "An act to establish free public libraries and reading-rooms," approved April twenty-sixth, eighteen hundred and eighty, in addition to the taxes herein authorized to be levied and collected. All moneys received from licenses, and from fines, penalties and forfeitures, shall be paid into the general fund.

Police judge.

§ 561. The police judge shall be judge of the police court, and shall have the powers and perform the duties of a magistrate. He may administer and certify oaths and affirmations, and take and certify acknowledgments.

When disqualified.

§ 562. In all cases in which the police judge is a party, or in which he is interested, or when he is related to either party by consanguinity or affinity within the third degree, or is otherwise disqualified, or in case of his sickness or inability to act, the mayor may call in a justice of the peace residing in the city to act in the place and stead of the police judge; or if there be no justice of the peace residing in the city, or if all those so residing are likewise disqualified, then he may call in any justice of the peace residing in the county in which such city may be situated.

Clerk of court.

§ 563. The common council shall appoint, upon the nomination of the mayor, a clerk for said police court. Said clerk shall keep the records of said court and the seal thereof, and perform such other duties as may be required of him by law or ordinance. He shall receive a salary of one hundred dollars per month. The council shall also provide a seal for said police court.

Article VI.—School Department.**Board of education.**

§ 570. From and after the organization of each of such cities, the same shall constitute a separate school district, which shall be governed by the board of education of such city.

Vacancies.

§ 571. In case a vacancy shall occur in the office of school director, the board of education shall choose a person to fill such vacancy, who shall serve until the next election, when, if the term does not then expire, a person shall be elected to serve for the remainder of such unexpired term.

Meetings.

§ 572. The board of education shall meet on the second Tuesday after such general municipal election, and choose one of its members as president, and another as vice-president. Its regular meetings shall thereafter be held as often as twice in each month, and the time and place for holding such meetings shall be fixed by a rule of said board. Special meetings of said board may be held when called by written notice, signed by its president, or three of its members, and delivered personally to each of its members who shall not have signed the same. Four members shall constitute a quorum, and no business shall be transacted by said board of education without the concurrence of four of its members; but a majority of the members present at any meeting may adjourn from time to time. All meetings of said board of education shall be public,

and full records of its proceedings shall be kept by the school superintendent, who shall be ex-officio clerk of said board of education.

Powers of board.

§ 573. The board of education shall have power:

To maintain schools.

1. To establish and maintain public schools, and to subdivide the school districts, and to fix and alter the boundaries of such subdivisions.

Superintendent.

2. To appoint a school superintendent, who shall hold office during their pleasure, and to prescribe his duties, and fix his compensation.

Employees.

3. To employ and dismiss teachers, janitors, truant-officers, and school-census marshals, and to fix, alter, allow, and order paid their salaries or compensation; and to employ and pay such mechanics and laborers as may be necessary to carry into effect the powers hereby conferred.

Regulation of schools.

4. To make, establish, and enforce all necessary or proper rules and regulations, not in conflict with the laws of this state, for the government and management of public schools within such city, the teachers thereof, and the pupils therein, and for carrying into effect the laws relating to education.

Supplies.

5. To provide for the school department of such city fuel and lights, water, printing, and stationery, and to incur such other incidental expenses as may be deemed necessary by said board.

Building and repairs.

6. To build, alter, repair, rent, and provide schoolhouses, and to furnish the same with proper school furniture, apparatus, and appliances, and to insure any and all school property.

Real estate.

7. To purchase, receive, lease, and hold in fee, in trust for such city, any and all real estate and personal property that may have been acquired, or may hereafter be acquired, for the use and benefit of the schools of such city; provided, that no real estate shall be bought, sold, or exchanged, nor any expenditure incurred for the construction of new schoolhouses, without the approval of the common council; and provided further, that the proceeds of any such sale or exchange of real estate shall be exclusively applied to school purposes.

Improvement.

8. To grade, fence, and improve all school lots.

To determine moneys needed.

9. To determine annually the amount of money required for the support of the public schools, and for carrying into effect all the provisions

of law in reference thereto; and in pursuance of this provision, the board of education shall, at least ten days before the meeting of the common council at which the annual city taxes are levied, submit in writing to the common council a careful estimate of the whole amount of money to be received from the state and county, and of the amount to be required from such city for the above-mentioned purpose; and the amount so found to be required from the city shall, by the common council, be added to the other amounts to be assessed and collected for city purposes, and when collected, the proceeds thereof shall be immediately paid into the school fund of such city, to be drawn out only upon the order of the board of education; provided, that such annual tax shall not exceed twenty-five cents on each one hundred dollars of the assessed valuation of the real and personal property within such city.

Disbursement regulations.

10. To establish regulations for the just and equal disbursement of all moneys belonging to the school fund.

Encumbrances.

11. To discharge all legal encumbrances existing at the time of the incorporation of such city, or thereafter, on any school property within such city.

Admission of nonresidents.

12. To admit nonresident children, and persons over twenty-one years of age, to any of the departments of the schools of such city, upon the payment, monthly, in advance, to the treasurer of such city, for the school fund, of such tuition fee as said board may establish.

Age limit.

13. To prohibit any children under six years of age from attending the public schools.

Grades and text-books.

14. To establish and regulate the grades of schools in such city, and the course of study, and the mode of instruction to be pursued therein, and to determine what text-books shall be used.

Other acts.

15. To do and perform, in addition to the foregoing powers, such other acts as may be necessary or proper to carry into effect the powers hereby conferred.

Board may sue.

§ 574. The board of education may sue and be sued by their name of office. In any action or judicial proceeding against said board, service of process upon the president, or upon a majority of the members of the board, shall be sufficient to give the court jurisdiction to hear and determine the same.

County treasurer to pay over.

§ 575. All moneys received by the treasurer of the county wherein such city may be situated, on account of the school fund of such city,

or the school district consisting of the same, and all sums received into the county treasury, which may be apportioned to said city or district, shall be paid to the treasurer of such city by the treasurer of such county, as soon as received, or as soon as the apportionment shall be made, when apportionment is necessary.

Powers of president.

§ 576. The president of the board of education shall have power to administer oaths and affirmations concerning any demand upon the treasury, payable out of the school fund, and in all other matters relating to the duties of the board of education, and to witnesses examined in any investigation, had by such board of education, or by a committee thereof, duly appointed by it for that purpose.

Same.

§ 577. Said president may issue subpoenas under his hand and the seal of such city, attested by the city clerk, to compel the attendance of witnesses before such board of education, or committee thereof, who shall be entitled to the same fees as witnesses in civil cases, and who may be punished for contempt for nonattendance, or refusal to be sworn, or to answer, by the superior court of the county in which such city may be situated.

Claims.

§ 578. Every claim payable out of the school fund shall be filed with the clerk of the board of education, and after it shall have been approved by the board, a certificate of such approval shall be indorsed thereon, signed by the president and clerk; and a warrant upon the school fund shall be issued thereon for the payment of such claim, which warrant shall be signed by the president of such board, and countersigned by the clerk, and shall specify for what purpose the same is drawn.

Entire revenue for schools.

§ 579. The entire revenue derived by such city from the state school fund and the state school tax shall be applied by said board of education exclusively to the support of primary and grammar schools.

Article VII.—Miscellaneous Provisions.

Moneys collected.

§ 590. Every officer collecting or receiving any moneys belonging to or for the use of such city shall settle for the same with the clerk on the first Monday in each month, and immediately pay the same into the treasury, on the order of the clerk, for the benefit of the funds to which such moneys respectively belong.

No officer to be interested in contracts.

§ 591. No officer of such city shall be interested, directly or indirectly, in any contract with such city, or with any of the officers thereof, in their official capacity, or in doing any work or furnishing any supplies for the use of such city or its officers in their official capacity; and any claim for compensation for work done, or supplies or materials furnished,

in which any such officer is interested, shall be void, and if audited and allowed shall not be paid by the treasurer. Any willful violation of the provisions of this section shall be a ground for removal from office, and shall be deemed a misdemeanor, and punished as such.

CHAPTER V.

Municipal Corporations of the Fourth Class.

(Charter for cities having a population of more than 10,000 and not exceeding 15,000.)

Article I.—General Powers.

Fourth class.

§ 600. Every municipal corporation of the fourth class shall be entitled the city of — (naming it), and by such name shall have perpetual succession, may sue and be sued in all courts and places, and in all proceedings whatever, and shall have and use a common seal, and the same alter at pleasure; may purchase, receive, have, take, hold, lease, use, and enjoy property of every name or description, and control and dispose of the same for the common benefit.

Article II.—General Provisions Relating to Officers.

Officers.

§ 601. The officers of such city shall consist of a mayor, twelve councilmen, a collector, who shall also be street commissioner, an assessor, treasurer, city clerk, police judge, city attorney, chief of police, superintendent of public schools, and two school trustees for each ward; and whenever a free public library and reading-room is established therein, five trustees thereof; and the council may also provide for the election, by the voters of said city, or by said council, of a superintendent of irrigation. The city council may also elect a city surveyor, harbor-master, poundkeeper, and city jailer, and whenever a paid fire department shall be established in such city, a chief engineer, and one or more assistant engineers, and any other officer necessary to carry out the provisions of this chapter, and for whose election or appointment no provision is made, and may by ordinance prescribe the duties of all city officers, and fix their compensation, subject to the limitations herein contained.

Election under this act.

§ 602. On the first Tuesday after the first Monday of November of each odd-numbered year a municipal election shall be held, at which the qualified voters of such city shall elect one school trustee for each ward, and six councilmen, to be voted for by the wards they may respectively represent, and each to hold office for the term of four years, and until the qualification of his successor; and also a mayor, an assessor, a collector and street commissioner, city attorney, police judge, chief of police, and superintendent of public schools, who shall each hold office for two years, and until the qualification of a successor; provided, that at the first election held after the organization of such city under this act

such city shall elect two school trustees for each ward, and twelve councilmen, who shall, at the first meeting of the city council and board of education, respectively, decide by lot their terms of office; six of said councilmen and one-half of the number of school trustees to hold for the term of four years, and the others for the term of two years, and in each case until the qualification of their successors.

Provisions concerning elections.

§ 603. The city council shall call all city elections, designate the time and place of holding the same, giving at least ten days' notice thereof, and shall appoint one inspector or clerk, and two judges of election, for each ward or election precinct in such city, who shall appoint two clerks, and all shall take the oath of office prescribed by law for inspectors, judges, and clerks of state and county elections. All provisions of law regulating elections for state and county officers, not conflicting herewith, shall apply to elections under this chapter. The polls for all city elections shall be open at 8 o'clock A. M., and continue open until 5 o'clock P. M., the same day. If any officer so appointed shall fail to attend, those attending, with the electors assembled shall fill their places by others from the qualified electors present. All returns of city elections shall be made out and signed by the officers of such election in the usual form, and deposited with the city clerk within two days after the election. The persons having the plurality of the votes cast for each of the respective offices voted for shall be declared elected. No person shall vote at any city election unless he shall be an elector for state and county officers, and shall have actually resided within such city, and in the precinct where he may offer to vote, thirty days preceding such election; provided, that any elector who may remove from one precinct to another within thirty days prior to such election may, if a qualified voter therein at the time of removal, vote in the precinct from which he may have moved. If any person not having the legal qualifications of an elector at any city election shall fraudulently vote, or attempt to vote, or knowingly hand in two or more ballots folded together, or shall vote, or attempt to vote, more than once at the same election, such person or persons, on conviction thereof, shall be fined in any sum not less than twenty nor more than five hundred dollars, or be imprisoned in the county jail for any period not more than three months, or may be punished by both such fine and imprisonment.

City council to canvass vote.

§ 604. On the Monday following the election, the city council shall convene and publicly canvass the result, and shall issue certificates of election to each person elected by a plurality of votes. When two or more persons have received an equal and highest number of votes for any one of the offices voted for, the city council shall thereafter, at its first regular meeting, decide by vote between the parties which shall be elected. If the city council from any cause fail to meet on the day named, the mayor shall call a special meeting of said council within five days thereafter, and in addition to the notice provided for calling special meetings, shall publish the same on two successive days in some news-

paper published in such city. If the mayor fail to call said meeting within said five days, any four councilmen may call it. At such special meeting all elections, appointments, or other business may be transacted that could have been on the day first herein named.

Office, when vacant.

§ 605. Each officer of such city shall take the oath of office, and such as may be required to give bond, file the same, duly approved, within ten days after receiving notice of his election or appointment, or if no notice be received, then on or before the date fixed for the assumption by him of the duties of the office to which he may have been elected or appointed; but if anyone, either elected or appointed to office, fail for ten days to qualify as required by law or to enter upon his duties at the time fixed by law or the orders of the city council, then such office shall become vacant; or, if any such officer shall absent himself from such city continuously for ten days without the consent of the city council, or shall openly neglect or refuse to discharge his duties, such office may be by the city council declared vacant; provided, that the penalty for absence from the city shall not apply to such officers as serve without salary or other compensation. Such officers as are elected by the voters of the city shall enter upon their duties on the first Monday of January next succeeding the date of their election; such officers as are appointed or elected by the city council shall enter upon their duties within ten days after receiving notice of their appointment or election.

Unexpired term.

§ 606. When any vacancy occurs in any elective office, except the mayor, the city council may fill the same for the unexpired term, except in case of city councilmen, or school trustees, which shall be filled until the next city election, and until the qualification of a successor. The city council may, upon written charges to be entered upon their journal, after notice to the party, and after trial, by a vote of two-thirds of all the members elect, remove any officer.

Official bonds.

§ 607. It shall be the duty of the city council to provide for the accountability of the city assessor, treasurer, clerk, police judge, collector, and street commissioner, city attorney, and all other officers herein provided for, by requiring from them sufficient security for the faithful performance of their duties or trusts, which security shall be given by them before entering on their respective duties. If such security should be or become insufficient, additional security may be required, and if not given within ten days, the council, by a vote of two-thirds of the members, may declare the office vacant, and may thereafter fill the same.

Compensation.

§ 608. The mayor, councilmen, and school trustees shall not receive any salary or compensation for their services; provided, that members of the city council, or a committee thereof for that purpose appointed, may receive for their services, while acting as a board of equalization,

a sum to be determined by the council, not to exceed for each one five dollars per day, for each day while actually so engaged, for two weeks in each year, and no longer.

Street commissioner.

§ 609. The collector and street commissioner shall receive a salary, to be fixed by the city council, which shall not exceed the sum of fifteen hundred dollars per annum.

No additional compensation.

§ 610. The city council shall have no power to allow any extra or additional compensation to that in this chapter expressly authorized to any officer for the rendition of services that the city council have power to require the officer to perform by virtue of his office.

Ward division.

§ 611. In case any such city shall, at the time of its organization under this act, be divided into wards, such divisions shall continue, but the city council may, at any time not within three months previous to an annual city election, change the boundaries of such wards, or divide it into others, not exceeding six in number; provided, that such change shall not affect the term of office of any councilman or school trustee, but they shall serve out their term for the ward in which their residence may be; but if more reside within any one ward than the proportion to which it is entitled, those of the shortest unexpired term shall, by the council, be assigned for such unexpired term to a ward where there is a vacancy. The representation of each ward in the city council shall be as near as may be in proportion to its population, but each ward shall have two school trustees.

Article III.—Legislative Department.

City council.

§ 620. The mayor and councilmen of the several wards shall constitute the city council, and at its first meeting in January next after a city election shall elect a city clerk, city treasurer, and one of their own body as president of the city council, and at any time when the mayor and president are both absent, may elect a president pro tem., who shall act during such absence. They shall also, at such time, designate the number of policemen for such city, to be elected as hereinafter provided.

Meetings.

§ 621. A majority of the councilmen elect shall constitute a quorum for the transaction of business. A less number may adjourn from time to time, and they may compel the attendance of absent members. The council may punish their members for disorderly conduct, and upon written charges to be entered on their journal, for such conduct, after trial, may expel a member by a vote of two-thirds of all the members elected. The mayor shall have a vote only in case of a tie in the votes of the other members. They shall determine their rules of proceeding and the qualification of members. The sittings of the council shall be

open to the public, except where the interests of the city shall require secrecy. A journal of all their proceedings shall be kept by the clerk under their direction. At any time, at the request of any two members, the ayes and noes on any question shall be taken and entered upon the journal.

Powers of council.

§ 622. The city council shall have power and authority to make and pass all by-laws, ordinances, orders, and resolutions not repugnant to the constitution of the United States or of the state of California, or the provisions of this charter, necessary for the municipal government and the management of the affairs of the city, for the execution of the powers vested in said body corporate, and for carrying into effect the provisions of this chapter; to fix and collect a license tax on and to regulate theaters, melodeons, balls, concerts, dances, and all theatrical, melodeon, circus, or other performances, and all performances where an admission fee is charged, or which may be held in any house or place where wines or liquors are sold to the participants; also all shows, billiard-tables, bowling-alleys, exhibitions or amusements; to fix and collect a license tax on and to regulate all taverns, hotels, restaurants, saloons, bar-rooms, banks, brokers, manufactories, livery-stable keepers, express companies, and persons engaged in transmitting letters or packages, railroad, stage, and steamboat companies or owners, whose principal place of business is in such city, or who shall have an agency therein; to license and regulate auctioneers; to license, regulate, tax, prohibit, or suppress all tippling-houses, dram-shops, saloons, bars, bar-rooms, raffles, hawkers, peddlers, pawnbrokers, refreshment or coffee stands, booths, or sheds; to prohibit or suppress, or to license and regulate, all dance-houses, fandango-houses, cock-fights, dog-fights, or any exhibition or show of any animal or animals; to license and tax hackney-coaches, cabs, omnibuses, drays, market-wagons, and all other vehicles used for hire, and to regulate their stands, and to fix the rates to be charged for the transportation of persons, baggage, and property; and to license or suppress runners for steamboats, railroads, taverns, or hotels; and to fix and collect a license tax upon all occupations and trades, and all and every kind of business authorized by law, not heretofore specified, and provided, that in the business of selling intoxicating drinks, wines, ales, and beers, in less quantities than one quart, or to be drank on the premises where sold, and on any other business, trade, or calling not provided by law to be licensed for state and county purposes, the amount of license shall be fixed at the discretion of the city council, as they may deem the interests and good order of the city may require; also to prevent and restrain any riot or riotous assemblage, disturbance of the peace, or disorderly conduct, in any place, house, or street in the city; to prevent, remove, and abate nuisances at the expense of the parties creating, causing, or committing, or maintaining the same; to establish, maintain, and regulate a common pound for estrays, and to appoint a poundkeeper, who shall be paid out of the fines and fees imposed and collected of the owners of any animals impounded, and from no other

source; to prevent and regulate the running at large of any and all domestic animals within the city limits, or any parts thereof; and to regulate or prevent the keeping of such animals within any part of the city; to control and regulate slaughter-houses, washhouses, laundries, tanneries, forges, and offensive trades, and to provide for their exclusion or removal from the city limits, or from any part thereof; to provide, by regulation, for the prevention and summary removal of all filth and garbage in the streets, sloughs, alleys, backyards, or public grounds of such city, or elsewhere therein; to establish, alter, and repair city prisons, and to provide for the regulation of the same, and for the safekeeping of persons committed thereto; to provide for the care, feeding, and clothing of the city prisoners; to provide for the formation of a chain-gang for persons convicted of crimes or misdemeanors, and their proper employment and compulsory working for the benefit of the city; and also to provide for the arrest and compulsory working of vagrants; to prohibit and suppress all gaming, and all gambling or disorderly houses, and houses of ill-fame, and all immoral and indecent amusements, exhibitions, and shows; to establish and regulate markets and market-places; to fix and regulate the speed at which railroad cars may run within the city limits, or any portion thereof; to provide for and regulate the commons of the city; to regulate and prohibit fast driving or riding in any portion of the city; to regulate or prohibit the loading or storage of gunpowder and combustible or explosive materials in the city, or transporting the same through its streets or over its waters; to have, purchase, hold, use, and enjoy property of every name or kind whatsoever, and the same to sell, lease, transfer, mortgage, convey, control, or improve; to build, erect, or construct houses, buildings, or structures of any kind needful for the use or purposes of such city; to establish, continue, regulate, and maintain a fire department for such city, to change or reorganize the same, and to disband any company or companies of the said department; also to discontinue and disband said fire department, and to create, organize, establish, and maintain a paid fire department for such city; provided, that nothing in this chapter shall be construed to authorize the said city council to disband or discontinue the fire department of any city having, at the time of its organization under this act, a volunteer fire department organized and existing, or to create, establish, and maintain a paid fire department therein, without first submitting the proposition of establishing a paid fire department for such city to the legal voters thereof, at a general city election, for decision, and not after such election, unless thereat a majority of all the votes cast at such election are in favor thereof; and in the event that any time hereafter the volunteer fire department of such city shall be disorganized or disbanded, and a paid fire department established in its stead, then every person who shall have been an active fireman for the space of two years next before the date of such disbanding and establishing shall be entitled to and shall receive an exempt fireman's certificate, and such certificate shall entitle the person to whom it is issued to all benefits and immunities accorded by the laws of this state in regard to exempt firemen; to institute and perfect any and all measures

and means for the prevention or extinguishment of fires; to establish fire limits, and the same to alter at pleasure; to regulate or prevent the erection of wooden or other buildings or structures of combustible materials; to regulate the construction of buildings, sheds, awnings, signs, or any structures of a dangerous or unsafe character; to adopt, enter into, and carry out means for securing a supply of water for the use of such city or its inhabitants, or for irrigating purposes therein; to prevent the overflow of the city, or to secure its drainage; to provide for the numbering of houses; to establish a board of health; to prevent the introduction and spread of disease; to establish a city infirmary, and provide for the indigent sick; and to provide and enforce regulations for the protection of health, cleanliness, peace, and good order of the city; to establish and maintain hospitals within or without the city limits; to control and regulate interments, and prohibit them within the city limits; to build, alter, improve, keep in repair, and control the waterfront; to erect, regulate, and repair wharves and to fix the rate of wharfage and transit wharf, and levy dues upon vessels and commodities; and to provide for the regulation of berths, landing, stationing, and removing of steamboats, sail vessels, rafts, barges, and all other water craft; to fix the rate of speed at which steamboats and other steam water craft may run along the waterfront of the city; to build bridges so as not to interfere with navigation; to provide for the removal of obstructions to the navigation of any channel or watercourse; to clear out and excavate sloughs and other watercourses or channels; to license steamers, boats, and vessels used in any watercourse in the city, and to fix and collect a license tax thereon; to license ferries and bridges under the law regulating the granting of such license; to determine and impose fines for forfeitures and penalties that shall be incurred for the breach or violation of any city ordinance, and also for a violation of the provisions of this chapter, when no penalty is affixed thereto or provided by law, and to appropriate all such fines, penalties, and forfeitures for the benefit of the city; but no penalty to be enforced shall exceed, for any offense, the amount of five hundred dollars, or three months' imprisonment, or both; and every violation of any lawful order, regulation, or ordinance of the city council of such city is hereby declared a misdemeanor or public offense, and all prosecutions for the same may be in the name of the people of the state of California; to create and establish a city police; to prescribe their duties and their compensation, and to provide for the regulation and government of the same; to provide for conducting elections and establishing election precincts, when necessary; to examine, either in open session or by committee, the accounts or doings of all officers or other persons having the care, management, or disposition of moneys, property, or business of the city; to make all appropriations, contracts, or agreements for the use or benefit of the city, and in the city's name; to provide by ordinance for the opening, laying out, altering, constructing, extending, repairing, grading, paving, graveling, macadamizing, or otherwise improving of public streets, avenues, and other public ways, or any portion of either thereof, and for the construction, regulation and repair of sidewalks, and other

street improvements, all at the expense of the property to be benefited thereby, without any recourse, in any event, upon the city for any portion of the expense of such work, or any delinquency of the property holders or owners, and to provide for the forced sale thereof for such purposes; to establish a uniform grade for streets, avenues, sidewalks, and squares, and to enforce the observance thereof; to clear, cleanse, alter, straighten, widen, fill up, or close any water-way, drain, or sewer, or any watercourse in such city, when so declared by law to be navigable; to adopt, provide for, establish, and maintain a general system of sewerage, or drainage, or both, and the regulation thereof, the expense thereof to be borne by general taxation upon the taxable property and inhabitants of and in such city; to provide funds for the purpose aforesaid, and to determine manner, terms, and places of connection with main or central lines of pipes, sewers, or drains established with funds derived from general tax, and compel compliance with and conformity to such general system of sewerage, or drainage, or both, and the regulations of said council thereto relating, by the infliction of suitable penalties and forfeitures against person and property, or either, for non-conformity to or failure to comply with the provisions of such system and regulations, or either; to provide for all public buildings, public parks, or squares, necessary or proper for the use of the city; to permit the use of the streets for railroad purposes; to order paid any final judgment against such city; but none of its lands, or property of any kind or nature, taxes, revenue, franchise, or rights, or interest, shall be attached, levied upon, or sold in or under any process whatsoever; to regulate the sale of coal and wood in such city, and may appoint a measurer of wood and weigher of coal for the city, and define his duties, and prescribe his term of office, and the fees he shall receive for his services; provided, that such fees shall, in all cases, be paid by the parties requiring such service.

Indebtedness not to exceed means in the treasury.

§ 623. The city council shall not create, audit, allow, nor permit to accrue any debts or liabilities above the actual revenue and available means in the treasury that may be legally apportioned for such purpose, nor shall any warrant be drawn, or evidence of indebtedness be issued, unless there shall be sufficient money in the treasury justly applicable to meet the same.

Council to audit demands.

§ 624. All accounts and demands that shall lawfully arise against the city shall be submitted to the city council, and if found correct shall be allowed, and an order be made that the demand be paid; upon which (if there be funds in the treasury as in the preceding section provided) the clerk shall draw a warrant, which shall be countersigned by the president of the city council, upon the treasurer, in favor of the owner or owners of the demand, specifying for what purpose and by what authority it is issued, and out of what fund it is to be paid, and the treasurer shall pay the same out of the proper fund. All accounts and demands against

such city, other than such as are chargeable to or payable out of the school fund, must be presented to the city council duly itemized and accompanied with an affidavit of the party, or his agent, stating the same to be a true and legitimate claim against such city for the full amount for which the same is presented, and that the same accrued as set forth, and with all necessary and proper vouchers, within one year from the date the same accrued; and any claim or demand not so presented within the time aforesaid shall be forever barred, and said council shall have no authority to allow any account or demand not so presented in manner and time as aforesaid, nor shall any action be maintained against such city for or on account of any demands or claim against the same until such demand or claim shall have first been presented to the city council for action thereon.

Limitation of expenditures.

§ 625. The annual expenses of such city shall not exceed the sum of one hundred thousand dollars, except in cities where one per cent on the valuation of the property therein raises more than the sum of one hundred thousand dollars, and in such cities the annual expenses shall not exceed the sum of one per cent of the valuation of the property therein; provided, however, that moneys authorized to be raised and expended for the payment of the funded or bonded indebtedness of such city, and for school purposes in such city, as provided to be raised by the provisions of this chapter, shall not be considered a portion of said annual expense. If, at any time after the said sum shall have been expended in any year, it shall appear that the interests of such city demand an expenditure of an additional sum, the city council shall make a report of the same, which shall be published for at least three weeks in some newspaper printed and published in such city, particularly specifying the object or objects for which said expenditure is required, and the amount of money necessary to be raised to complete the same. At any time within ten days after the expiration of said publication, the city council shall order an election, giving ten days' notice thereof, at which time those persons who are legal voters of such city may vote for or against a tax to raise such additional sum. The election shall be conducted and returns made and canvassed in all respects as the general elections of such city, and a majority shall determine if such tax be levied or not. If the vote is in favor of such tax, the city council shall forthwith, by an order to be entered on the journal of their proceedings, order the tax to be levied and collected upon the basis of the last municipal assessment, and shall make the proposed expenditure; provided, that the special tax thus to be levied shall, for no one year, be more than one per cent of the valuation of real and personal property in the city, as shown by the last assessment-roll. All special taxes to be levied and collected under the provisions of this section shall be levied and collected in the manner, form, and ways prescribed for the levying and collecting of the general taxes of such city; and as a security for their payment, a lien shall attach to and against each lot of land for the amount assessed against it from the date of the order; and every person, firm, or corporation against whom a tax

be thus assessed shall be personally liable to pay the amount to such city. Said lien shall continue until such taxes are paid, or the property become vested in a purchaser under a sale thereof. [Amendment approved March 19, 1889. Stats. 1889, p. 371. In effect immediately.]

Excessive expenditure void.

§ 626. Every appropriation or payment of money made or ordered by the city council in excess of said sum stated in section 625, unless it shall be authorized by a vote of the electors of such city, as provided for in the preceding section, shall be invalid, illegal, and void, and shall be recoverable by the city from the party or parties to whom the same is made, if knowingly taken or received by such party or parties; and the members of the city council who shall have voted for the same shall be individually, jointly, and severally liable for such excess, and it may be recovered from them in any court of competent jurisdiction by the party or parties with whom they have contracted, or by the city, if payment has been actually made. [Amendment approved March 19, 1889. Stats. 1889, p. 371. In effect immediately.]

Public streets.

§ 627. All the streets in such city that have been or shall hereafter be laid out and dedicated by the party or parties owning the land fronting upon the same, or by the authority of such city, and declared to be public streets, and that have been or shall hereafter be used as such, shall be and are hereby declared public streets to the extent that the same may have been or shall hereafter be used, laid out, or dedicated.

Contracts for work and materials.

§ 628. All contracts for work to be performed, or materials to be used, ordered by or for such city, or in which it is interested, may be, and when the cost exceeds five hundred dollars shall be, let to the lowest bidder. A notice, signed by the clerk, soliciting sealed proposals, shall be published a reasonable time, in no case less than ten days, prior to the time fixed for opening such bids. Such notice shall designate the work to be done, and the place and the time in which it may be performed, with such other specifications as may tend to give the bidders a knowledge of the object to be accomplished, and with a reference to the diagram or specifications on file in the clerk's office. On the day limited in said notice for the opening of said bids the council, or a committee therefor appointed, shall, in open meeting, open and declare said bids and award the contract to the lowest responsible bidder; provided, however, that the city council, or its committee, may reject all bids when considered too high or uncertain from any circumstances. The council or committee may, before considering any offer, require security that the party will enter into a contract if awarded to him; and all contracts shall be in writing, and accompanied with a bond satisfactory to the mayor. No officer of such city shall be interested in any contract to which the city is a party, and any contract contrary to the provisions hereof shall be void.

Improvement of public highways.

§ 629. The city council is authorized and empowered to establish, lay out, alter, open, improve, and repair streets, avenues, sidewalks, alleys, bridges, squares, and other public highways and places within the city, and to drain, sprinkle, and light the same; to remove all obstructions therefrom; to establish the grades thereof; to grade, pave, macadamize, gravel, and curb the same, in whole or in part, and to construct gutters, culverts, sidewalks, and cross-walks therein, or upon any part thereof; to cause to be planted, set out, and cultivated, shade trees along the lines thereof or therein, and generally to manage and control all such highways and places.

Apportionment of expense.

§ 630. The city council shall have the power to provide by ordinance for doing any or all work in or upon the streets, avenues, highways, and public places of such city, and for making therein street improvements and repairs, or for the preservation thereof, and for doing any or all work thereupon or therein authorized by this chapter; and for the payment of the cost and expenses thereof by the levy and collection of special assessments therefor upon the property to be affected or benefited thereby. That is to say, the expense or cost of any work or improvement upon the streets, avenues, or public ways of such city shall be assessed upon the lots and lands fronting thereon, each lot or portion of a lot being separately assessed for the full debt thereof in proportion to the benefits upon the property to be benefited sufficient to cover the total expense of the work to the center of the street on which it fronts. The expense of all improvements in the space formed by the junction of two or more streets, or where one main street terminates in or crosses another main street, and also all necessary street-crossings or cross-ways, shall be paid by such city. In all the streets constituting the waterfront of such city, or bounded on the one side by the property thereof, the expense of work done on that portion of said streets from the center line thereof to the said waterfront, or to such property of the city bounded thereon, shall be provided for by such city, but no contract for any such work shall be given, except to the lowest responsible bidder, and in the manner hereinbefore provided. When any work or improvement mentioned in this section is done or made on one side of the center line of said streets, avenues, or public ways, the lots or portions of lots fronting on that side only shall be assessed to cover the expenses of said work, according to the provisions of this chapter.

Enacting clause.

§ 631. The style of the city ordinances shall be as follows: "The mayor and city council of the city of — do ordain as follows"; and all ordinances shall be published in one or more of the newspapers published in the city.

Publication of ordinances.

§ 632. By-laws and ordinances shall be passed by the city council and approved by the mayor, or the president of the city council acting

in his stead. But before any by-law or ordinance shall have any binding validity, it shall be published in one or more newspapers published in the city, and recorded in the record-book to be kept by the clerk. The clerk shall certify on the record the fact of publication, and so certified, the record shall be prima facie evidence of the passage thereof, and may be read as evidence of the by-law or ordinance, and its publication. A printed copy of any ordinance or by-law, or a compilation thereof, printed by authority of the city council, and attested by the clerk, shall be evidence thereof in same manner and with like effect.

Entry on journal.

§ 633. All orders of the city council, to have force and legal validity, shall be entered on the journal of their proceedings, which journal shall be signed by the officer who may preside at such meeting.

Ayes and noes.

§ 634. Upon the passage of all ordinances appropriating money, imposing taxes, abolishing licenses, increasing or lessening the amount to be paid for licenses, the ayes and noes shall be entered upon the journal.

Majority necessary.

§ 635. A majority of all the members elected shall be necessary to pass any ordinance appropriating for any purpose the sum of five hundred dollars or upwards, or any ordinance imposing any assessment, tax or license, or in any wise increasing or diminishing the city revenue.

Free library.

§ 636. The trustees of any free public library, created or existing in such city under the provisions of an act entitled "An act to establish the public libraries and reading-rooms," approved April twenty-sixth, eighteen hundred and eighty, shall be appointed by the city council in the same manner as other officers are appointed under the provisions of this chapter, anything in the provisions of said act to the contrary notwithstanding.

Article IV.—Taxation.

Tax levy.

§ 640. The city council shall have full power and authority to assess, levy, and collect annually taxes upon all the property within the city, taxable for state purposes, not exceeding one per cent upon the assessed value thereof, which shall be paid into the general fund for current expenses. They shall provide for the payment of the principal and interest of the bonded indebtedness, if any, of such city, and for the payment of the other indebtedness of such city not funded; and they shall each year levy, assess, and collect an additional tax upon the taxable property as aforesaid, not exceeding two per cent in any one year, which, when collected, shall be paid into a fund to be disbursed as follows:

1. To pay the interest on said bonds;
2. To a fund for the payment of the principal thereof; and,

3. To meet any indebtedness, as aforesaid, not funded.

And the city council, in making said levy, shall estimate the proportion requisite for each fund, and the same shall be expended, under the direction of the city council, for the purpose aforesaid, and for no other purpose. Said tax shall be levied, assessed, and collected upon all property liable to taxation within such portion and such limits, and so much of the territory of such city as shall be liable therefor under the laws and charters in existence at the time of the organization of such city under this act; and if, by reason of extension of territory, or from any cause, a portion only, or a certain district, of such city be liable, under such laws and charters, for the payment of the bonded and other indebtedness above named, or any portion of either thereof, the city council in levying such tax shall make such levy upon and against the property which is situated and persons who may reside in the territory of such city, liable in each case for the payment of such indebtedness, or any particular class or portion thereof, according to such existing laws and charters. The city council shall also have power to raise annually, by tax upon all the property within the city taxable for state purposes, whatever amount of money may be requisite for the support of free public schools therein, including high schools, and providing and furnishing houses therefor; but the tax provided for in this section shall not exceed thirty-five cents on each one hundred dollars valuation upon the assessment-roll in any one year, and may, in like manner, raise by tax a fund for the establishment and maintenance of a free public library and reading-room; such tax not to exceed, in any one year, the rate of ten cents on each one hundred dollars valuation.

Duty of assessor.

§ 641. It shall be the duty of the city assessor to prepare, between the first day of January and the first Monday in April in each year, and present to the city clerk, with his certificate of its correctness, a list of all the real and personal property within the city on the first day of January taxable for state and county purposes, with a true valuation thereof on the first day of January, which said assessment-list shall conform as near as practicable, when not inconsistent with the provisions of this chapter, to the assessment list required by law to be made by the county assessor for state and county purposes; also, to make all assessments for the improvements of streets as herein or by ordinance provided; to be present at the sessions of all boards of equalization mentioned in this chapter, and to furnish to said board such information as may be required, and to perform such other services in reference to the assessments of property in the city or otherwise appertaining to his office as the city council by ordinance or resolution may require. During the session of the board of equalization the city assessor shall enter upon the assessment list all the changes and corrections made by the board, and may assess and add to such list any property in such city not previously assessed. In the assessment and listing of property for taxation, and in the collection of tax upon personal property not secured by lien upon real estate, he shall have and may exercise the

same powers as are conferred by law upon county assessors, and shall receive therefor the same fees and compensation. He shall receive a salary to be fixed by the city council, which shall not exceed five hundred dollars per annum. [Amendment approved March 19, 1889. Stats. 1889, p. 371. In effect immediately.]

Equalization.

§ 642. The city council, or a committee of their number selected for that purpose by the city council, at a meeting thereof to be held on the first Monday of April of each year, shall constitute a board of equalization, and shall, after the assessor shall have completed and handed in his assessment list to the city clerk, and after five days' notice published in some newspaper in such city, hold meetings to hear and determine all complaints respecting the valuation of property as fixed by the assessor in such list, and shall have power, on their own motion, with or without complaint made, to modify and change such valuation in any way they shall deem just and proper; provided, however, that before making any change in any assessment, the board shall notify the person interested by letter, deposited in the postoffice or express, postpaid, and addressed to such person, at least three days before action taken, of the day fixed when the matter will be investigated; provided, further, that no reduction must be made in the valuation of property, unless the party affected thereby, or his agent, makes and files with the board a written application therefor verified by his oath, showing the facts upon which it is claimed such reduction should be made. Any member of said board shall have power to administer oaths and affirmations in the matters before said board, and the sessions of said board shall be held from time to time, as in its notice specified, for the period of two weeks, and no longer.

Clerk to complete.

§ 643. After the board of equalization shall have completed their duties, the city clerk shall add up the columns of valuation, and enter the total valuation of each description of property in the list, and the total value of all property assessed and listed thereon; and thus equalized and added up, the clerk shall, on the first Monday of May thereafter, deliver it to the city council.

Levy of the tax.

§ 644. On the first Monday in May in every year the city council, by an ordinance, shall levy upon all the property in the city taxable by law for state purposes a tax for school purposes, and for the current and general expenses of the city, and, in conformity to the provisions of this chapter, shall levy any and all other taxes by law directed then to be levied or assessed; and, in conformity with the provisions of this chapter, shall levy a tax for the payment of the funded debt upon the property liable therefor. Every tax so levied is made a lien, which shall attach on said day in each year to and against all real property assessed for the amount assessed against it; and if said property be assessed to

a wrong person, or by a wrong name, said lien shall in no wise be affected or invalidated, and it shall not be satisfied or removed until the taxes are paid, or the property has absolutely vested in a purchaser under and by reason of a sale for such taxes. Every tax assessed upon personal property is a lien upon the real property of the owner thereof from and after the time of the levy of such tax. The fiscal year shall begin on the first day of January; and the terms "real and personal property" shall have the same meaning as the same terms used in the revenue laws of the state.

List to be delivered to collector.

§ 645. As soon as the city council have declared and levied the taxes in any year, as in the preceding section provided, the city clerk shall carry out, in a separate money column in the list, the amount of taxes assessed against each individual, firm, company, corporation, or unknown owner, and add and put down the aggregate of all taxes as shown by the list; and as thus carried out, the city clerk shall certify to its correctness, and on or before the third Monday of May thereafter deliver it to the city collector, and shall charge him with the amount of taxes as footed up, and take his receipt therefor.

Collection.

§ 646. The collector, on receiving the assessment list certified by the clerk, shall proceed to collect the taxes specified therein, and pay over the same into the treasury, taking a receipt thereof. For the purpose of collecting the taxes authorized by this chapter, the city collector shall have such powers as are given by the revenue laws of this state to collectors of state and county taxes, so far as the same are applicable. All taxes unpaid at the close of official business on the third Monday of June shall be deemed delinquent, after which time the collector shall receive no money for taxes; and he shall, on said day, enter upon assessment-roll a levy upon all property therein assessed the taxes upon which remain unpaid, and shall immediately ascertain the total amount of taxes unpaid, and file in the office of the city clerk a list of all persons and property then owing taxes, verified by his oath, which list shall be known as the delinquent list.

Delinquencies.

§ 647. On the third Monday in June of each year, at 6 o'clock P. M., all unpaid taxes are delinquent, and thereafter the collector must collect thereon, for the use of the city, an addition of five per cent.

Delinquent list.

§ 648. On the first Monday in July of each year, the city collector must deliver to the city clerk a complete delinquent list of all persons and property then owing taxes; and in the list so delivered must be set down in numerical or alphabetical order all matters and things contained in the assessment-roll and relating to delinquent persons or property.

Verification.

§ 649. The city clerk must carefully compare such delinquent list with the assessment-roll, and if satisfied that it contains a full and true state-

ment of all taxes due and unpaid, he must foot up the total amount of taxes so remaining unpaid, credit the city collector therewith, and make a final settlement with him of all taxes charged against him on the assessment-roll; and must require from him the treasurer's receipt for the full amount of taxes collected.

Certification.

§ 650. After the settlement with the city collector, as prescribed in the preceding section, the city clerk must charge the city collector with the amount of taxes due on the delinquent tax list, with the five per cent added thereto, and within three days thereafter deliver the list, duly certified to such city collector.

Publication.

§ 651. On or before the third Monday in July of each year, the city collector must publish the delinquent list, which must contain the names of the persons and a description of property delinquent, and the amount of taxes and costs due, opposite each name and description, with the taxes due on personal property, added to taxes on real estate where the real estate is liable therefor, or the several taxes are due from the same person. To said list must be appended and with it published a notice that unless the taxes delinquent, together with the costs and percentage, are paid, the real property upon which such taxes are a lien will be sold at public auction, and designating therein the time and place of such sale, which must take place in or in front of the city collector's office, and not less than fourteen nor more than twenty-one days from the first publication.

Collector to certify.

§ 652. Said list must be published three times a week for two successive weeks in some newspaper or supplement thereto published in such city, and when such publication is completed, and before commencing the sale, the city collector must file with the city clerk a copy of the publication, with his affidavit attached thereto, that it is a true copy of the same, that the publication was made in a newspaper or a supplement thereto, stating the name and place of publication; such affidavit shall be prima facie evidence of all the facts therein stated. The expense of the publication of the delinquent list to be paid by the city.

Additional amount.

§ 653. The city collector must collect, in addition to the taxes due on the delinquent list, and five per centum added thereto, fifty cents on each lot, piece, or tract of land separately assessed, and on each assessment of personal property, one-half of which must go to the city, and the other to the city collector, in full for preparing the list.

Sale.

§ 654. On the day fixed for the sale, or on some subsequent day to which he may have postponed it, of which he must give notice, the city collector, between the hours of 10 o'clock A. M. and 3 P. M., must com-

mence the sale of the property advertised, commencing at the head of the list, and continuing alphabetically, or in the numerical order of lots and blocks, until completed.

Postponement.

§ 655. He may postpone the day of commencing the sale, or the sale, from day to day; but the sale must be completed within two weeks from the day first fixed.

Owner may designate portion.

§ 656. The owner or person in possession of any real estate offered for sale for taxes due thereon may designate, in writing, to the city collector, prior to the sale, what portion of the property he wishes sold, if less than the whole; but if the owner or the possessor does not, then the collector may designate it, and the person who will take the least quantity of the land, or in case an undivided interest is assessed, then the smallest portion of the interest, and pay the taxes and costs due, including fifty cents to the city collector for the duplicate certificate of sale, is the purchaser.

Duplicate certificate.

§ 657. After receiving the amount of the taxes and costs, the city collector must make out in duplicate a certificate, dated on the day of sale, stating (when known) the name of the person assessed, a description of the land sold, the amount paid therefor, that it was sold for taxes, giving the amount and year of the assessment, and specifying the time when the purchaser will be entitled to a deed.

Delivery.

§ 658. The certificates must be signed by the collector, and one copy delivered to the purchaser, and the other filed in the office of the county recorder.

Record of sales.

§ 659. The city collector, before delivering any certificate, must in a book enter a description of the land sold, corresponding with the description in the certificate, the date of sale, purchaser's name, and amount paid, regularly number the descriptions on the margin of the book, and put a corresponding number on each certificate. Such book must be open to public inspection, without fee, during office hours, when not in actual use.

Lien vested in purchaser.

§ 660. On filing the certificate with the county recorder, the lien of the city vests in the purchaser, and is only divested by the payment to him, or to the city treasurer for his use, of the purchase money, and fifty per cent thereon.

Redemption.

§ 661. A redemption of the property sold may be made by the owner, or any party in interest within twelve months from the date of the purchase.

Records of redemption.

§ 662. On receiving the certificate of sale, the recorder must file it, and make an entry in a book similar to that required of the collector. On the presentation of the receipt of the person named in the certificate or of the city treasurer for his use, of the total amount of redemption money, the recorder must mark the word "Redeemed," the date, and by whom redeemed, on the certificate, and in the margin of the book where the entry of the certificate is made.

Purchaser's deed.

§ 663. If the property is not redeemed within the time allowed by law for its redemption, the city collector, or his successor in office, must make to the purchaser, or assignee, a deed of the property, reciting in the deed substantially the matters contained in the certificate, and that no person has redeemed the property during the time allowed for its redemption. The collector shall be entitled to receive from the purchaser three dollars for making such deed.

What the deed proves.

§ 664. The matters recited in the certificate of sale must be recited in the deed, and such deed duly acknowledged or proved is prima facie evidence that:

1. The property was assessed, as required by law;
2. The property was equalized, as required by law;
3. The taxes were levied in accordance with law;
4. The taxes were not paid;
5. At a proper time and place the property was sold, as prescribed by law, and by the proper officer;
6. The property was not redeemed;
7. The person who executed the deed was the proper officer;
8. Where the real estate was sold to pay taxes on personal property, that the real estate belonged to the person liable to pay the tax.

Deed is evidence of regularity.

§ 665. Such deed, duly acknowledged or proved, is (except as against actual fraud), conclusive evidence of the regularity of all other proceedings, from the assessment by the assessor, inclusive, up to the execution of the deed, and conveys to the grantee the absolute title to the lands described therein, free from all encumbrances.

Assessment-roll a guarantee of regularity.

§ 666. The assessment-roll or delinquent list, or a copy thereof, certified by the city clerk, showing unpaid taxes against any person or property, is prima facie evidence of the assessment, the property assessed, the delinquency, the amount due and unpaid, and that all the forms of law in relation to the assessment and levy of such taxes have been complied with.

Article V.—Executive Department.**Duties and powers of mayor.**

§ 670. The mayor shall be the chief executive officer of the city. He shall have a general supervision over the several departments of the

city government, and over all its interests, shall preside over the city council when present, once in three months submit a general statement of the condition of its various departments, and recommend to the city council such measures as he may deem expedient for the public good, or improvement of the city, its finances, or government. He shall sign all ordinances passed by the city council, if he approves them; if he does not approve, he shall, within eight days after its submission to him, return the same to the city clerk's office, with his objections in writing, and at the first meeting of the city council thereafter the same shall be entered upon their journal, and they shall then reconsider such ordinance, and unless two-thirds of the councilmen elect, vote for its passage, it shall not become a law. If the mayor shall not so return any ordinance within eight days, it shall become a law as if he had signed it. He may call special meetings of the city council at any time; he shall do so at the written request of four councilmen, by notifying each member personally, or by a written notice left at his last and usual place of abode, or at his place of business during business hours, stating the purpose of such meeting.

President of council.

§ 671. The president of the city council shall preside at all its meetings when the mayor is not present; and whenever there is a vacancy in the office of mayor, or he is absent from the city, or unable, from any cause, to discharge the duties of his office, the president shall act as mayor and exercise all his authority and be subject to his duties. He shall countersign all warrants and licenses issued under and by authority of the city, but in his absence or inability to perform said duty, the mayor, or, if he is absent or unable to perform said duty the president pro tem., or if none has been elected the chairman of the finance committee, may sign the same.

Deputies.

§ 672. The chief of police, city attorney, city assessor, city clerk, and city collector, and street commissioner may each, with the approval of the city council, only appoint such deputies as may be necessary, by writing, to be filed with the clerk. Each deputy so appointed shall receive for his services a compensation to be fixed by the city council, not exceeding one hundred dollars per month, and shall perform such duties under the direction of his principal as may by said council be prescribed. The principals shall be each responsible for his deputy, and may revoke the appointment at pleasure.

Chief of police.

§ 673. The chief of police shall receive a salary which shall not exceed the sum of fifteen hundred dollars per annum, to be determined by the city council.

Treasurer.

§ 674. The city treasurer shall receive a salary which shall not exceed the sum of three hundred dollars per annum, to be determined by the city council.

Duties of treasurer.

§ 675. It shall be the duty of the city treasurer to receive and safely keep all moneys belonging to such city, from whatever source derived, to place the same to the credit of the different funds to which they properly belong, in a book kept for that purpose; to disburse said moneys by the direction of the city council, and in accordance with the provisions made by them, and the school fund, by the direction of the board of education, under the provisions of this chapter, and to make a report monthly to the city council of the condition of the treasury.

Clerk.

§ 676. It shall be the duty of the clerk of the city to keep the corporate seal and all papers and documents belonging to the city; to file them in his office, under appropriate heads; to attend the sittings of the city council and to keep a journal of their proceedings and records of all their by-laws, resolutions, and ordinances; to sign all warrants and licenses issued in pursuance of the orders and ordinances of the city council, and to affix the corporate seal on such licenses; to keep an accurate account in a suitable book, under the appropriate heads, of expenditures, of all orders drawn upon the city treasurer, and all warrants issued in pursuance thereof; also, to keep an account in an appropriate book of all licenses issued, with the names of the persons to whom issued, the date of issue, the time for which the same was granted, and the sums paid therefor, and to perform such other duties as he may be required to perform by the provisions of this act, or by ordinance. He shall receive for his services a salary to be fixed by the city council, not exceeding the sum of one hundred dollars per month.

Assessor.

§ 677. It shall be the duty of the city assessor to prepare the assessment-rolls, lists, and books, and to make the assessment of persons and property in said city as required by this chapter; also to make and present all assessments for improvement of streets, or other work of like character. He shall receive a salary, to be fixed by the city council, not exceeding five hundred dollars per annum.

Collector and commissioner.

§ 678. The city collector and street commissioner shall collect all taxes, assessments, licenses, wharfage rates, and all other moneys or dues owing, accruing, belonging, or coming to said city, and the same shall pay over monthly to the city treasurer, unless otherwise ordered by the city council. He shall regulate the landing and stationing of all steamers, vessels, boats, or other water craft, and shall make report to the city council each month. As street commissioner, he shall have the general supervision of all streets, public squares, levees, wharves, sloughs, drains, water-ways, bridges, sidewalks, cross-walks, and public buildings, and shall superintend all work, repairs, or improvement thereof or thereon. At the request of the street committee of the city council, he shall make report to them of any of his doings, and shall do and perform all such other duties as may be required of him by ordinance of

Powers of judge.

§ 692. The judge of said court shall also have power to hear cases for examination, and may commit and hold the offender to bail for trial in the proper court, and may try, condemn, or acquit, and carry his judgment into execution, as the case may require, according to law; and to punish persons guilty of contempt of court, and shall have power to issue warrants of arrest in cases of a criminal prosecution for the violation of a city ordinance, as well as in case of the violation of the criminal law of the state; also, all subpoenas and all other processes necessary to the full and proper exercise of his powers and jurisdiction in all criminal trials before the police judge for the violation of a city ordinance, as well as in cases of a violation of the criminal law of the state, made triable before such court; the defendant shall be entitled, if demanded by him, to a jury trial but a trial by jury may be waived by the defendant in all such cases, and upon such waiver the court shall proceed and try the case.

Dockets.

§ 693. The city council shall furnish, for the use of the police court, two dockets; one shall be styled The city criminal docket, in which all the criminal cases shall be recorded, and each case shall be alphabetically indexed; the other shall be styled The city civil docket, and it shall contain a record of every civil case which is prosecuted before said court, and each case shall be properly indexed, and in all cases the dockets shall contain all such entries as are required by law to be made in the justice's docket; and in any case commenced or tried before the court the docket must show what duties were performed by each officer, and the amount of fees due to the officer for such services, and the amount of money, if any, collected.

Appeals.

§ 694. Appeals from the police court may be taken to the superior court of the county in all cases cognizable by the said police court, and such appeals shall be taken as in case of appeal from a justice's court.

City and district attorney.

§ 695. The city attorney of such city shall prosecute all cases for the violation of any lawful order, regulation, or ordinance of the city council, and shall prosecute, conduct, and control all proceedings in cases mentioned in section 622 of this act, both in the police court and on appeal therefrom to the superior court, but the district attorney shall attend and conduct all proceedings of the nature of a preliminary examination before said police court.

Incarceration.

§ 696. In all cases when the police court is authorized to impose a fine or imprisonment, or both, upon persons convicted in said court of any offense triable therein, the said court may sentence the offender to be imprisoned in the city jail, if there be one established by the city

council, if not, then until said council shall designate and establish a city jail or prison, may sentence offenders to be imprisoned in the county jail, and in addition to imprisonment, may sentence offenders to be employed to labor in the city, under the direction of the chief of police, and in the manner prescribed by ordinance, for the benefit of the city, during such time of imprisonment, and may, in case of imposing a fine, embrace as a part of the sentence that, in default of the payment of such fine, the defendants shall be imprisoned and required to labor for the benefit of the city as before provided, at the rate of two dollars a day, till such fine is satisfied. Offenders required to labor under the direction of the chief of police shall, until the establishment of a city jail, be returned to the county jail at the end of each day's labor during their term of imprisonment, until a city jail shall be by the city council established. It is hereby made the duty of the officer having the control or charge of the county jail of the county wherein such city is situated, to receive and safely keep all persons imprisoned by any judgment or order of the police court, in accordance with the order of commitment, and to allow those to be removed from the jail under the charge of the chief of police, who are required to labor for the benefit of the city, or whom the police judge may order brought forth for trial, and the keeper of the jail shall in no way be responsible for the safe-keeping of such prisoners while so under the charge of the chief of police.

Seal.

§ 697. The court shall have a seal, to be provided by the city, and certified transcripts of the police judge's docket and the seal of his court shall be evidence in any court of the state of the contents of the docket; and all warrants, and other processes issued out of said court, and all acts done by said police judge under its seal, shall have the same force and validity, in any part of this state, as though issued or done by any court of record of this state.

Judge's report.

§ 698. The police judge shall, on the last Saturday of each month, make to the city council a full report of all the cases tried in his court for that month, in which the city may be interested, and at the same time shall pay into the city treasury all fines and other moneys collected on behalf of the city for such month.

Salaries.

§ 699. The city council of such city shall allow to the police judge an annual salary which shall not exceed the sum of fifteen hundred dollars, and to the chief of police and the several policemen of such city each a salary which shall be fixed by said council. The salaries of the police judge, and chief of police and policemen shall be paid from time to time as other city officers and as the council may determine. The chief of police, or any policeman of such city, is hereby authorized and empowered to serve, execute, and return any and all warrants of arrest,

and all processes directed to him by the police judge of said city, and to arrest all persons accused or guilty of the violation of any city ordinance, or of any public offense, and to do and perform all acts and duties which, in criminal cases, any constable of the county may lawfully do, and receive like fees for such services; provided, the city council may, in their discretion, deduct the amount so received, for fees from the monthly salary of such officers, or order the same paid into the city treasury for the use and benefit of the city, as received by said officers respectively; provided, that nothing in this charter shall be construed as authorizing or entitling such officers to charge or receive from such city, or the county wherein situated, any fees or costs in any case whatever, nor shall such city or county be liable to pay any fees, or costs to such officers for any service they may render in any action or proceeding, either civil or criminal. The chief of police shall attend the session of the police court when required, supervise and direct the police force of the city, and perform such other duties as may be required by the city council appertaining to the government of the city or the management of its affairs, not especially devolved upon some other officer named in this chapter; and the chief of police, or any policeman, at his discretion, shall serve all notices by this chapter provided to be served, in which the city is in any way interested, and the return of the officer serving shall be evidence of the facts in such return stated, but none of such officers shall serve or execute any civil process, except as provided in this chapter.

Powers of justices.

§ 700. The justices of the peace in and for the township embracing such city shall have the same powers as the same officers in any justice's court of the county, and shall have and may exercise like powers and authority; provided, however, that no justice of the peace in such city shall have power to conduct or try and decide any proceedings or cases of the classes mentioned in section 622 of this act; but nothing in this section shall be construed to prevent any of the justices in said city from acting as police judge.

Interested party not disqualified.

§ 701. The interest which any inhabitant of such city may have in a penalty for the breach of a by-law or ordinance of such city shall not disqualify said inhabitant to act as judge, juror, or witness in any prosecution to recover the penalty.

Article VII.—School Department.

Board.

§ 710. The board of education of such city shall be elected as in this chapter provided, and shall consist of one superintendent and two trustees from each ward in the city.

Superintendent.

§ 711. The superintendent shall be ex-officio secretary of the board of education, and shall receive for his services a salary which shall not

exceed eighteen hundred dollars per annum. He shall report to the city council, annually, on or before the first Monday in January, and at such other times as they may require, all matters pertaining to the expenditures, income, condition, and progress of the public schools of the city during the preceding year, together with such accommodations [recommendations], as he may deem proper, and shall, at the regular meeting of the board of education in June of each year, submit to the board a detailed statement of the amount, as near as may be ascertained, of fuel, blanks, blank-books, apparatus, stationery, and such other articles, materials, or supplies, including books for indigent children, as may be necessary for the use of the city schools and the board for one year following. He shall have power to administer oaths and affirmations concerning any demand upon the treasury payable out of the school fund, or other matters relating to his official duties. [Amendment approved March 14, 1885. Stats. 1885, p. 134. In force from and after its passage.]

Advertisement for supplies.

§ 712. The board of education shall, upon the receipt of the statement from the superintendent, as in the preceding section provided, advertise for the space of five successive days in some newspaper published in such city, for sealed proposals for furnishing the articles in said statement specified. Said advertisement shall designate a day after the expiration of the publication aforesaid when said proposals will be considered, at which time the board or a committee thereof by the board for such purpose designated, shall meet and publicly open and declare the proposals received and shall thereupon award the contract therefor to the lowest responsible bidder or bidders, in each case; provided, that all bids may be rejected if deemed too high. Said board may, in their discretion, require a good and sufficient bond with two or more sureties, to be filed by each bidder, in the sum of two hundred dollars, conditioned for the fulfillment of his proposal in case of the acceptance thereof.

Powers of board.

§ 713. Subject to and in accordance with the directions and provisions of this chapter, the board of education shall have full power:

Establish schools.

1. To establish and maintain public schools, including high school, and fix and alter the boundaries of the district thereof.

Employees.

2. To employ and dismiss teachers, janitors, and other necessary help, and to fix, alter, allow, and order paid their salaries or compensation, and to employ and pay such mechanics and laborers as may be necessary to carry into effect the powers and duties of the board, and to withhold, for good and sufficient cause, the whole or any part of the salary or wages of any person or persons employed as aforesaid.

Regulation of schools.

3. To make, establish, and enforce all necessary and proper rules and regulations not contrary to law, for the government and progress of the public schools within the city, the pupils therein and the teachers thereof, and for carrying into effect the laws relating to education; also, to establish and regulate the grade of schools, and determine what course of study and mode of instruction shall be used in said schools.

Building and repairs.

4. To build, alter, repair, rent, and provide schoolhouses, and the same furnish with lights, water, proper school furniture, apparatus, and school appliances, and to insure any and all school property.

Real estate.

5. To receive, purchase, lease, and hold in fee, in trust for such city, any and all real estate; and to hold in trust any personal property that may have been or may hereafter be acquired for the use and benefit of the public schools of such city.

Improvements.

6. To grade, fence, and improve school lots, and in front thereof to grade, sewer, plank, or pave and repave, and to construct and repair sidewalks.

Legal privileges.

7. To sue for any and all lots, lands, and property belonging to or claimed by the said school department; and to prosecute and defend all actions at law or in equity necessary to recover and maintain the full enjoyment and possession of said lots, lands, and property, and to employ and pay counsel in such cases.

To determine amount of money needed.

8. To determine annually the amount of taxation, not exceeding thirty-five cents on each one hundred dollars valuation on the assessment-roll, to be raised upon the real and personal property within the city not exempt from taxation, for the establishment and support of free public schools therein; and for carrying into effect all the provisions of law regarding public schools, and the amount so determined by said board of education shall be reported in writing to the city council on or before the first Monday of April of each year; and the said city council are hereby authorized and required to levy and cause to be collected, at the time and in the manner of levying other city taxes, the amount of taxation so determined and reported to them by the said board of education, as school tax, upon all taxable property in the city; and said tax shall be in addition to all other amounts levied for city purposes.

Disbursements.

9. To establish regulations for the just and equal disbursement of all moneys belonging to the "public-school fund."

Demands.

10. To examine and allow, in whole or in part, every demand payable out of the school fund, or to reject any such demand for good cause, of which the board shall be sole judge.

Encumbrances.

11. To discharge all legal encumbrances now existing, or which may hereafter exist, upon any school property.

Age limit.

12. To prohibit any child under six years of age from attending the public schools.

Other acts.

13. And generally to do and perform such other acts as may be necessary and proper to carry into force and effect the powers conferred on said board.

Fund to be diverted.

14. To use and apply the school fund of the city for the purposes in this section heretofore named, and for no other purpose whatever.

Nonresidents.

15. To admit nonresident children to any of the departments of the schools of such city upon the payment, at such time as said board may direct, of tuition fee, to be fixed by said board.

Board of examination.

§714. No teacher shall be employed in any of the public schools of such city without having a certificate of the proper grade, issued under the provisions of this chapter. For the purpose of granting certificates required, the board of education, either as a body or by a board of examination appointed by said board of education, and of which the superintendent shall be president, shall hold examinations of teachers. No certificate shall be issued except to a person who shall have passed a satisfactory examination in such branches as the board may require, and shall have given evidence of good moral character, ability, and fitness to teach. Examinations of teachers must be held semi-annually, at such times as the board may determine.

Revocation and renewal.

§715. The board may, in its discretion, renew without re-examination the certificate of any person so employed. It shall have power to revoke the certificate of any teacher upon evidence of immoral or unprofessional conduct or incompetency, and shall always have the power to dismiss any and all teachers, and to alter the amount of salary or compensation paid to either or any of them. The board of education may also, without examination, grant certificates and fix the grade thereof to the holders of life diplomas, state educational diplomas, normal

school diplomas, state university diplomas, and to the holders of such state and county certificates as were in full force and effect on the first day of January, eighteen hundred and eighty.

Board must visit.

§ 716. It shall be the duty of the board of education to visit and examine each school at least once each and every month; to observe, and cause to be observed, such general rules for the regulation and government and instruction of the schools, not inconsistent with the laws of the state, as may be established by the board.

School fund, how constituted and applied.

§ 717. The public school fund of such city shall consist of all moneys received from the state and county school fund; of all moneys arising from taxes which shall be levied by the city council for school purposes; of all moneys arising from the sale, rent, or exchange of school property, and of such other moneys as may from any source whatever be paid into said school fund; which fund shall be kept separate and distinct from all other moneys, and shall only be used for school purposes under the provisions of this chapter. No fees or commission shall be allowed or paid for assessing, collecting, keeping, or disbursing of school moneys; and if at the end of the fiscal year any surplus remains in the school fund, such surplus money shall be carried forward to the school fund of the next fiscal year, and no part of the school fund shall be for any purpose or in any manner whatever diverted or withdrawn from said fund, except as in this chapter provided.

Approval of claims.

§ 718. All claims payable out of the school fund shall be filed with the secretary of the board, and shall be approved by a majority of all the members of the board, and certificate of such approval shall be indorsed thereon; whereupon the secretary of said board shall draw a warrant upon the city treasurer for the payment thereof, which warrant shall be countersigned by the superintendent. All demands for salaries of teachers and compensation of janitors shall be payable monthly in the same manner without presentation of claims therefor.

Payment of demands.

§ 719. All demands authorized by this article, and by the board approved as aforesaid, shall be paid by the city treasurer from the school fund upon the presentation of the warrants therefor; provided, that the board of education shall not, without the consent of the city council first had, have power to create any debts or liability in any one year to exceed the actual revenue or available means in the city treasury under the control of the board, and justly applicable for school purposes for such year.

CHAPTER VI.

Municipal Corporations of the Fifth Class.

(A charter for cities having a population of more than 3,000 and not exceeding 10,000.)

Article I.—General Powers.

Fifth class.

§ 750. Every municipal corporation of the fifth class shall be entitled the city of — (naming it), and by such name shall have perpetual succession, may sue and be sued in all courts and places, and in all proceedings whatever; shall have and use a common seal, alterable at the pleasure of the city authorities, and may purchase, lease, receive, hold, and enjoy real and personal property, and control and dispose of the same for the common benefit.

Article II.—General Provisions Relating to Officers..

Officers.

§ 751. The government of said city shall be vested in a board of trustees, to consist of five members; a board of education, to consist of five members; and whenever a free public library and reading-room is established therein, five trustees thereof; a recorder; a treasurer; a clerk; an attorney; a marshal; an assessor, and such subordinate officers as are hereinafter provided for; provided, that the board of trustees may, in its discretion, by an ordinance adopted, published and recorded as required for general ordinances, at least thirty days before a general city election, at which city officers are to be elected, unite and consolidate certain offices, by declaring:

1. The city marshal elected shall be ex-officio superintendent of streets, and health officer;
2. The city clerk elected shall be ex-officio recorder and assessor;
3. The city treasurer elected shall be ex-officio city tax collector and license tax collector;
4. The city attorney elected shall be ex-officio city clerk. [Amendment approved February 28, 1901. Stats. 1901, p. 70. In effect immediately.]

Election and terms of office.

§ 752. The members of the board of trustees, and of the board of education, and the city clerk, city attorney, assessor, marshal, treasurer, and recorder shall be elected by the qualified electors of said city at a general municipal election, to be held therein on the second Monday in April, nineteen hundred and three, and on the second Monday in April of each fourth year thereafter and shall hold office for the period of four years from and after the Monday next succeeding the day of such election, and until their successors are elected and qualified; provided, that a general municipal election shall be held in said city on the second Monday in April, nineteen hundred and five, for the election of successors to the members of the board of trustees and of the board of education whose terms of office expire during said year,

and said successors shall hold office for the period of two years from and after the Monday next succeeding the day of such election, and until their successors are elected and qualified. The board of trustees may in their discretion appoint a poundmaster, also a superintendent of streets, and a city engineer, all of whom shall hold office during the pleasure of the board. [Amendment approved February 26, 1903. Stats. 1903, p. 40. In effect immediately.]

Official bonds.

§ 753. The clerk, treasurer, city attorney, and marshal shall, respectively, before entering upon the duties of their respective offices, each execute a bond to such city in such penal sum as the board of trustees by ordinance may determine, conditioned for the faithful performance of his duties, including in the same bond the duties of all offices of which he is made by this chapter ex-officio incumbent. Such bonds shall be approved by the board of trustees. All bonds, when approved, shall be filed with the clerk, except the bond of the clerk, which shall be filed with the president of the board of trustees. All the provisions of any law of this state relating to the official bonds of officers shall apply to such bonds except as herein otherwise provided. Every officer of such city, before entering upon the duties of his office, shall take and file with the clerk the constitutional oath of office.

Vacancies.

§ 754. Any vacancy occurring in any of the offices provided for in this act shall be filled by appointment by the board of trustees; but if such office be elective, such appointee shall hold office only until the next regular election, at which time a person shall be elected to serve for the remainder of such unexpired term. In case a member of the board of trustees is absent from the city for the period of ninety days, unless by permission of the board of trustees, his office shall by the board be declared vacant, and the same filled as in case of other vacancies.

Compensation.

§ 755. The members of the board of trustees shall receive no compensation whatever, except while acting as a board of equalization. The treasurer, assessor, marshal, clerk, and recorder shall severally receive at stated times, a compensation to be fixed by ordinance, by the board of trustees, which compensation shall not be increased or diminished after their election, or during their several terms of office. Nothing herein contained shall be construed to prevent the board of trustees from fixing such several amounts of compensation, in the first instance, during the term of office of any such officer, or after his election. The compensation of all other officers shall be fixed from time to time by the board of trustees. [Amendment approved March 19, 1889. Stats. 1889, p. 389. In effect immediately.]

Election regulations.

§ 756. All elections in such city shall be held in accordance with the general election laws of the state, so far as the same may be made

applicable, and no person shall be entitled to vote at such election unless he shall be a qualified elector of the county, enrolled upon the great register thereof, and shall have resided in such city for at least thirty days next preceding such election. The board of trustees shall give such notice of each election as may be prescribed by ordinance, shall appoint boards of election, and fix their compensation, and establish election precincts and polling-places, and may change the same; provided, that no part of any ward less than the whole thereof shall be attached to any other ward, or part thereof, in forming election precincts. At any municipal election the last printed great register of the county shall be used, and any elector whose name is not upon such printed register shall be entitled to vote, upon producing and filing with the board of election a certificate, under the hand and official seal of the county clerk, showing that his name is registered and uncanceled upon the great register of such county, provided that he is otherwise entitled to vote.

Eligibility to office.

§ 757. No person shall be eligible to or hold any office in such city, whether filled by election, or appointment, unless he be a resident and elector therein, and shall have resided in such city for one year next preceding the date of such election or appointment.

Free library.

§ 758. The trustees of any free public library created or existing in such city under the provisions of an act entitled "An act to establish free public libraries and reading-rooms," approved April twenty-sixth, eighteen hundred and eighty, shall be elected by the qualified electors of said city, at a general municipal election to be held therein on the second Monday in April next succeeding the passage and approval of this act, and shall hold office for the period of four years from and after the Monday next succeeding the day of such election, and until their successors are elected and qualified. In case a vacancy shall occur in the office of trustee of such free public library and reading-room, the board of trustees of said free public library and reading-room shall choose a person to fill such vacancy, who shall serve until the next general municipal election, when, if the term does not then expire, a person shall be elected to serve for the remainder of such unexpired term. [Amendment approved April 1, 1897. Stats. 1897, p. 403. In effect immediately.]

Article III.—Legislative Department.

Board of trustees.

§ 760. The board of trustees shall meet on the Monday next succeeding the date of said general municipal election, shall take the oath of office, shall choose one of their number president, and shall hold regular meetings at least once in each month, at such times as they shall fix by ordinance. Special meetings may be called at any time by the president of the board or by three trustees, by written notice delivered to each member at least three hours before the time specified for

the proposed meeting. All meetings of the board of trustees shall be held within the corporate limits of the city, at such place as may be designated by ordinance, and shall be public.

Meetings.

§ 761. At any meeting of the board of trustees, a majority of the trustees shall constitute a quorum for the transaction of business, but a less number may adjourn from time to time, and may compel the attendance of absent members in such manner and under such penalties as may be prescribed by ordinance. The president of the board shall preside at all meetings of the board, and in case of his absence, the board may appoint a president pro tem.; and in case of the absence of the clerk, the president or president pro tem. shall appoint one of the members of the board clerk pro tem.

Rules.

§ 762. The board of trustees shall judge of the qualifications of its members and of all election returns, and determine contested elections of all city officers. They may establish rules for the conduct of their proceedings, and punish any member, or other person, for disorderly behavior at any meeting. They shall cause the clerk to keep a correct journal of all their proceedings, and, at the desire of any member, shall cause the ayes and noes to be taken on any question, and entered on the journal.

Limitation on passage of ordinances.

§ 763. No resolution granting any franchise, and no ordinance for any purpose, shall be passed by the board of trustees on the day of its introduction, nor within five days thereafter, nor at any other than a regular meeting, or an adjourned regular meeting, and no such resolution and no ordinance granting any franchise shall be passed without being first submitted to the city attorney. No resolution or order for the payment of money shall be passed at any other than a regular meeting, or an adjourned regular meeting, and no resolution or order for the payment of money, no resolution granting a franchise, and no ordinance for any purpose, shall have any validity or effect unless passed by the affirmative vote of at least three trustees. [Amendment approved March 19, 1889. Stats. 1889, p. 389. In effect immediately.]

Powers of board.

§ 764. The board of trustees of such city shall have power:

1. To pass ordinances not in conflict with the constitution and laws of this state, or of the United States.
2. To purchase, lease, or receive such real estate and personal property as may be necessary or proper for municipal purposes, and to control, dispose of, and convey the same for the benefit of the city; provided, that they shall not have any power to sell or convey any portion of any waterfront; but may rent such waterfront for a term not exceeding ten years for the purpose of erecting bathhouses thereon.

3. To contract for supplying the said city with water, and gas, and electric lights or other lights for municipal purposes; to purchase, lease, construct or otherwise acquire waterworks, electric plants, and gas-works or plants or any of same, and all machinery, conductors, lands, appliances and all other things needed therefor, and to supply said city with, and to sell to the inhabitants of said city, gas, electric light or other light, and heat, and power; provided that no such purchase or lease shall be made unless the question of acquiring such property is submitted to the voters of such city in the same manner as other propositions, at a general or special municipal election, and a majority of the electors, voting at such election shall vote in favor of such proposition.

4. To establish, build and repair bridges; to establish, lay out, alter, keep open, open, improve and repair streets, sidewalks, alleys, squares, and other public highways and places within the city, and to drain, sprinkle, oil, and light the same; to remove all obstructions therefrom; to establish the grades thereof; to grade, pave, macadamize, gravel and curb the same in whole or in part, and to construct gutters, culverts, sidewalks, and cross-walks therein, or upon any part thereof; to cause to be planted, set out, and cultivated, shade trees therein; and generally to manage and control all such highways and places.

5. To establish, construct and maintain drains and sewers, and to provide by ordinance for a general system of sewers, and the expense of building and maintaining the same.

6. To provide fire-engines and all other necessary or proper apparatus for the prevention and extinguishment of fires.

7. To impose and collect from every male inhabitant between the ages of twenty-one and sixty years, an annual street poll-tax, not exceeding two dollars, and no other road poll-tax shall be collected within the limits of such city; provided, that any member of a volunteer fire company in such city shall be exempt from such tax.

8. To impose and collect an annual license, not exceeding two dollars on every dog owned or harbored within the limits of the city.

9. To levy and collect annually a property tax, which shall be apportioned as follows: For the general fund, not exceeding sixty cents on each one hundred dollars; for street fund, not exceeding thirty cents on each one hundred dollars; for school fund, not exceeding twenty-five cents on each one hundred dollars; for sewer fund, not exceeding ten cents on each one hundred dollars. The levy for all purposes for any one year for all purposes to which such funds are applicable shall not exceed one dollar on each one hundred dollars of the assessed value of all real and personal property within such city.

10. To license, for purposes of regulation and revenue, all and every kind of business, including the sale of intoxicating liquors, authorized by law and transacted or carried on in such city, and all shows, exhibitions, and lawful games carried on therein; to fix the rates of licenses upon the same, and to provide for the collection of the same by suit or otherwise.

11. To improve the rivers and streams flowing through such city, or adjoining the same; to widen, straighten, and deepen the channels thereof, and to remove obstructions therefrom; to improve the waterfront of the city, and to construct and maintain embankments and other works to protect such city from overflow.

12. To erect and maintain buildings for municipal purposes.

13. To permit, under such restrictions as they may deem proper, the laying of railroad tracks and the running of cars drawn by horses, steam, electricity, or other power thereon, and the laying of gas or water pipes in the public streets, and to construct and maintain, and to permit the construction and maintenance of telephone, telegraph and electric light lines therein.

14. In its discretion to divide the city, by ordinance, into a convenient number of wards, not exceeding five, to fix the boundaries thereof, and to change the same from time to time; provided, that no change in the boundaries of any ward shall be made within sixty days next before the date of said general municipal election, or within twenty months after the same shall have been established or altered. Whenever such city shall be divided into wards, the boards of trustees shall designate by ordinance the number of trustees to be elected from each ward, apportioning the same in proportion to the population of such ward; and thereafter the trustees so designated shall be elected by the qualified electors resident in such ward, or by the general vote of the whole city, as may be designated in such ordinance.

15. To appoint and remove such policemen and such other subordinate officers as they may deem proper, and to fix their duties and compensation.

16. To impose fines, penalties, and forfeitures for any and all violations of ordinances, and for any breach or violation of any ordinance to fix the penalty by fine or imprisonment, or both, but no such fine shall exceed three hundred dollars, nor the term of such imprisonment exceed three months.

17. To cause all persons imprisoned for violation of any ordinance to labor on the streets, or other property or works within the city.

18. To establish fire limits, and the same to alter at pleasure; to regulate or prevent the erection of wooden or other buildings or structures of combustible materials; to regulate the construction of all buildings, shades, awnings, signs, or any structure of a dangerous or unsafe character; to provide, by regulation, for the prevention and summary removal of all filth and garbage in the streets, sloughs, alleys, backyards or public grounds of such city, or elsewhere therein; to regulate or prohibit the storage of gunpowder and combustible or explosive materials of every kind and nature within the city limits, and to prescribe the limits in which the same may be kept or stored.

19. To do and perform any and all other acts and things necessary and proper to carry out the provisions of this chapter, and to exact and enforce within the limits of such city all other local, police, sanitary, and other regulations as do not conflict with general laws. [Amendment approved April 16, 1909. Stats. 1909, p. 937. In effect immediately.]

Enacting clause of ordinances.

§ 765. The enacting clause of all ordinances shall be as follows: "The board of trustees of the city of — do ordain as follows." Every ordinance shall be signed by the president of the board of trustees, attested by the clerk, and published at least once in a newspaper published in such city, or printed and posted in at least three public places therein. It shall not be necessary in any action, civil or criminal, to plead or prove the organization or existence of such corporation, nor the passage, existence, or validity of any ordinance thereof; and courts shall take judicial cognizance thereof without proof. [Amendment approved March 19, 1889. Stats. 1889, p. 389. In effect immediately.]

Board to audit demands.

§ 766. All demands against such city, except as otherwise by law provided, shall be presented to and audited by the board of trustees, in accordance with such regulations as they may by ordinance prescribe; and upon the allowance of any such demand, the president of the board shall draw a warrant upon the treasurer for the same, which warrant will be countersigned by the clerk, and shall specify for what purpose the same is drawn, and out of what fund it is to be paid. [Amendment approved March 19, 1889. Stats. 1889, p. 389. In effect immediately.]

Indebtedness not to exceed moneys provided.

§ 767. The board of trustees shall not create, audit, allow, or permit to accrue any debt or liability in excess of the available money in the treasury that may be legally apportioned and appropriated for such purposes, except in the manner provided by law for incurring indebtedness; provided, that any city during the first year of its existence under this act may incur such indebtedness or liability as may be necessary, not exceeding in all the income and revenue provided for it for such year; nor shall any warrant be drawn, or evidence of indebtedness be issued, unless there be at the time sufficient money in the treasury legally applicable to the payment of the same, except as hereinbefore provided. [Amendment approved March 19, 1889. Stats. 1889, p. 389. In effect immediately.]

Incurring of excess decided at an election.

§ 768. If at any time the board of trustees shall deem it necessary to incur any indebtedness in excess of the money in the treasury applicable to the purposes for which such indebtedness is to be incurred, they shall give notice of a special election by the qualified electors of the city, to be held to determine whether such indebtedness shall be incurred. Such notice shall specify the amount of indebtedness proposed to be incurred; the purpose or purposes if the question of indebtedness for more than one purpose be proposed of the same, and the amount of money necessary to be raised annually by taxation for an interest and sinking fund as hereinafter provided; provided, that such interest shall not be in excess of seven per cent per annum. Such notice shall be published

for at least two weeks in some newspaper published in such city, and no other question or matter shall be submitted to the electors at such election. If, upon the canvass of the votes cast at such election, it appears that not less than two-thirds of all the qualified electors voting at such election shall have voted in favor of incurring such indebtedness, it shall be the duty of the board of trustees to pass an ordinance providing for the mode of creating such indebtedness and of paying the same; and in such ordinance provision shall be made for the levy and collection of an annual tax upon all the real and personal property subject to taxation within such city, sufficient to pay the interest on such indebtedness as it falls due; and also, to constitute a sinking fund for the payment of the principal thereof within a period of not more than twenty years from the time of contracting of the same. It shall be the duty of the board of trustees, in each year thereafter, at the time at which taxes are levied, to levy a tax sufficient for such purposes in addition to the taxes by this chapter authorized to be levied. Such tax when collected shall be kept in the treasury as a separate fund, or funds, in case indebtedness be incurred for different purposes, to be inviolably appropriated to the payment of the principal and interest of such indebtedness. [Amendment approved March 19, 1889. Stats. 1889, p. 371. In effect immediately.]

At the same session there was another amendment of section 768, as follows:

Incurring of indebtedness to be decided at an election.

§ 768. If at any time the board of trustees shall deem it necessary to incur any indebtedness in excess of the money in the treasury applicable to the purposes for which such indebtedness is to be incurred, they shall give notice of a special election by the qualified electors of the city, to be held to determine whether such indebtedness shall be incurred. Such notice shall specify the amount of indebtedness proposed to be incurred, the purpose or purposes (if the question of indebtedness for more than one purpose be proposed) of the same, and the amount of money necessary to be raised annually by taxation for an interest and sinking fund for each purpose, as hereinafter provided. Such notice shall be published for at least two weeks in some newspaper published and circulated in such city; and no other question or matter shall be submitted to the electors at such election. If, upon a canvass of the votes cast at such election, it appears that not less than two-thirds of all the qualified electors voting at such election, or if more than one proposition is submitted, voting on such proposition, shall have voted in favor of incurring such indebtedness, it shall be the duty of the board of trustees to pass an ordinance providing for the work of creating such indebtedness and of paying the same; and in such ordinance provision shall be made for the levy and collection of an annual tax upon all the real and personal property subject to taxation within such city, sufficient to pay the interest on such indebtedness as it falls due; and also to constitute a sinking fund for the payment of the prin-

cipal thereof within a period of not more than twenty years from the time of contracting the same. It shall be the duty of the board of trustees in each year thereafter, at the time at which other taxes are levied, to levy a tax sufficient for such purposes in addition to the taxes by this chapter authorized to be levied. Such tax, when collected, shall be kept in the treasury as a separate fund, or funded if indebtedness be incurred for different purposes, to be inviolably appropriated to the payment of the principal and interest of such indebtedness. [Amendment approved March 19, 1889. Stats. 1889, p. 397. In effect immediately.]

Imprisonment.

§ 769. The violation of any ordinance of such city shall be deemed a misdemeanor, and may be prosecuted by the authorities of such city in the name of the people of the state of California, or may be redressed by civil action, at the option of said authorities. Any person sentenced to imprisonment for the violation of an ordinance may be imprisoned in the city jail, or, if the board of trustees shall by ordinance so prescribe, in the county jail of the county in which such city may be situated; in which case the expense of such imprisonment shall be a charge in favor of such county against such city. [Amendment approved March 7, 1905. Stats. 1905, p. 72. In effect in sixty days.]

Nuisances.

§ 770. Every act or thing done or being within the limits of such city, which is or may be declared by law or by any ordinance of such city to be a nuisance, shall be and is hereby declared to be a nuisance, and shall be considered and treated as such in all actions and proceedings whatever; and all remedies which are or may be given by law for the prevention and abatement of nuisances shall apply thereto.

Repairs assessed on fronting property.

§ 771. The board of trustees are hereby authorized and empowered to order any work authorized by this chapter to be done upon the streets, avenues, highways, and public places of such city. The cost and expense incurred therefor shall be paid as follows, to wit: The expense or cost of improving and repairing streets, sidewalks, alleys, squares, and other public highways and places within the city, removing obstructions therefrom; grading, paving, macadamizing, graveling and curbing the same, and constructing gutters, culverts and sidewalks therein, shall be assessed upon the lots and lands fronting thereon, each lot or portion of a lot being separately assessed for the full debt thereof in proportion to the benefits upon the property to be benefited, sufficient to cover the total expense of the work to the center of the street on which it fronts, provided that the board of trustees may expend from the general fund for said purposes a sum not exceeding one hundred dollars on any one street in any one year. The expense of all improvements in the space formed by the junction of two or more streets, or where one main street terminates in or crosses another main street, and also all necessary

street crossings, or crossways at corners or intersection of streets, and the expense of establishing, building and repairing bridges in such city, shall be paid by such city. The expense incurred in making and repairing sewers in any street shall be paid, one-fourth by the owner of the lands on one side of said street, one-fourth by the owner of the land on the other side of said street, and one-half by the city out of the sewer fund. In all the streets constituting the waterfront of such city, or bounded on the one side by the property thereof, the expense of work done on that portion of said streets, from the center line thereof to the said waterfront, or to such property of the city bounded thereon, shall be paid for by such city; but no contract for any such work shall be given, except to the lowest responsible bidder, and in the manner hereinafter provided. When any work or improvements mentioned in this section is done or made on one side of the center line of said streets, avenues, or public highways, the lots or portions of lots fronting on that side only shall be assessed to cover the expenses of said work, according to the provisions of this chapter. Whenever any expenses or cost of work shall have been assessed on any lands, the amount of said expenses shall become a lien upon said lands, which shall take precedence of all other liens, and which may be foreclosed in accordance with the provisions of the Code of Civil Procedure. Said suit shall be in the name of the city of (naming it), as plaintiff. Upon the filing of a complaint in the superior court to enforce a lien of any kind hereon, the plaintiff shall be entitled, if a recovery is had or the money is paid, to include as costs the sum of twenty-five dollars as attorney's fees.

Right of way.

§ 772. Whenever it shall become necessary for the city to take or damage private property for the purpose of establishing, laying out, extending and widening streets and other public highways and places within the city, or for the purpose of rights of way for drains, sewers and aqueducts, and for the purpose of widening, straightening, or diverting the channels of streams, and the improvement of waterfronts, and the board of trustees cannot agree with the owner thereof as to the price to be paid, the trustees may direct proceedings to be taken under section 1237, and following sections, to and including section 1263 of the Code of Civil Procedure, to procure the same.

City tax levy.

§ 773. The board of trustees shall have the power, and it shall be their duty, to provide by ordinance a system for the assessment, levy and collection of all city taxes not inconsistent with the provisions of this chapter. All taxes shall be collected by the marshal or treasurer, as may be determined by the board of trustees by ordinance. All taxes assessed, together with any percentage imposed for delinquency and the costs of collection, shall constitute liens on the property assessed; every tax upon the personal property shall be a lien upon the real property of the owner thereof. The liens provided for in this section shall attach as

of the first Monday in March of each year, and may be enforced by a sale of the real property affected, and the execution and delivery of all necessary certificates and deeds therefor, under such regulations as may be prescribed by ordinance, or by action in any court of competent jurisdiction to foreclose such liens; provided, that any property sold for such taxes shall be subject to redemption within five years and upon the terms provided or that may hereafter be provided for the redemption of property sold for state taxes. All deeds made upon any sale of property for taxes or special assessments under the provisions of this chapter shall have the same force and effect in evidence as is or may hereafter be provided by law for deeds for property sold for nonpayment of state taxes. [Amendment approved March 8, 1905. Stats. 1905, p. 88. In effect in sixty days.]

See note to § 871, post.

Equalization.

§ 774. The board of trustees shall meet at their usual place of holding meetings on the second Monday of August of each year, at 10 o'clock in the forenoon of said day, and sit as a board of equalization, and shall continue in session from day to day until all the returns of the assessor have been rectified. They shall have power to hear complaints, and to correct, modify or strike out any assessment made by the assessor, and may, of their own motion, raise any assessment, upon notice to the party whose assessment is to be raised. The corrected list for each tax shall be the assessment-roll for said tax for said year. It shall be certified by the city clerk, who shall act as clerk of the board of equalization, as being the assessment-roll for said tax, and shall be the assessment-roll upon which such tax is to be levied in said year.

Construction of act.

§ 775. Nothing in this chapter contained shall be construed to prevent any city having a bonded indebtedness, contracted under laws heretofore passed, from levying and collecting such taxes for the payment of such indebtedness, and the interest thereon, as are provided for in such laws, in addition to the taxes herein authorized to be levied and collected; nor to prevent any city from levying and collecting the tax authorized by the act entitled "An act to establish free public libraries and reading-rooms," approved April twenty-sixth, eighteen hundred and eighty, in addition to the taxes herein authorized to be levied and collected. All moneys received from licenses, street poll tax, and from fines, penalties and forfeitures, shall be paid into the general fund.

Waterfront fund.

§ 776. The board of trustees may also levy, and cause to be collected in each year, in addition to the taxes herein authorized to be levied and collected, a tax, not exceeding ten cents on each one hundred dollars of the assessed value of all real and personal property within such city subject to taxation, the proceeds of which tax shall be known as the "River and Waterfront Improvement Fund," and shall be applied to the improvement

of streams, bays and waterfronts, and the erection of embankments and other works to protect the city from overflow, and for no other purposes whatever.

Public work to be contracted for.

§ 777. In the erection, improvement and repair of all public buildings and works, in all street and sewer work, and in all work in or about streams, bays, or waterfronts, or in or about embankments, or other works for protection against overflow, and in furnishing any supplies or materials for the same, when the expenditure required for the same exceeds the sum of one hundred dollars, the same shall be done by contract, and shall be let to the lowest responsible bidder, after notice by publication in a newspaper of general circulation printed and published in such city, for at least two weeks, or if there be no newspaper printed or published therein, by printing and posting the same in at least four public places therein for the same period. Such notice shall distinctly and specifically state the work contemplated to be done; provided, that the board of trustees may reject any and all bids presented, and re-advertise, in their discretion. The board of trustees shall annually, at a stated time, contract for doing all city printing and advertising, which contract shall be let to the lowest bidder, after notice, as provided in this section, and the contract therefor shall be awarded separately from all other printing. [Amendment approved March 10, 1891. Stats. 1891, p. 54.]

Powers of president.

§ 778. The president of the board of trustees shall preside over all meetings of the board at which he is present. In his absence a president pro tem. may be chosen. The president, and in his absence the president pro tem., shall sign all warrants drawn on the city treasurer, and, unless otherwise provided by said board, shall sign all written contracts entered into by said city, as such president or president pro tem. The authority and power of the president pro tem. shall continue only during the day on which he is chosen. The president and president pro tem. shall have power to administer oaths and affirmations, and take affidavits and certify the same under their hands. The president or president pro tem. shall sign all conveyances made by said city, and all instruments which shall require the seal of the city. The president is authorized to acknowledge the execution of all instruments executed by said city that require to be acknowledged. He shall have power to administer oaths and affirmations concerning any demand upon the treasury, and in all matters relating to the duties of the board of trustees, and to witnesses examined in any investigation had by said board, or by any committee thereof duly authorized to make such investigation. Said president may issue subpoenas under his hand and the seal of such city, attested by the city clerk to compel the attendance of witnesses before such board of trustees or committee thereof. [Amendment approved March 19, 1889. Stats. 1889, p. 389. In effect immediately.]

Article IV.—Executive Department.**Treasurer.**

§ 786. It shall be the duty of the treasurer to receive and safely keep all moneys which shall come into his hands as city treasurer, for all of which he shall give duplicate receipts, one of which shall be filed with the city clerk. He shall pay out said money on warrants signed by the proper officers, and not otherwise, except interest coupons on bonds. He shall make quarterly settlements with the city clerk. He shall collect all taxes levied by the board of trustees, if so required by ordinance. [Amendment approved March 19, 1889. Stats. 1889, p. 389. In effect immediately.]

Assessor.

§ 787. It shall be the duty of the assessor, between the first day of May and the first day of August in each year, to make out a true list of all the taxable property within the city. The mode of making out of said list, and proceedings relating thereto, shall be in conformity with laws now in force regulating county assessors, except as the same may be otherwise provided in this act, or by ordinance. Said list shall describe the property assessed and the value thereof, and shall contain all other matters required to be stated in such lists by county assessors. Said assessor shall verify said list by his oath, and shall deposit the same with the city clerk on or before the first Monday of August in each year. The assessor shall, during said time, also make a list of all male persons residing within the limits of such city over the age of twenty-one years, and shall verify said list by his oath, and shall, on or before the first Monday of August in each year, deposit the same with the city clerk. Said assessor and his deputy shall have power to administer all oaths and affirmations necessary in the performance of his duties.

City clerk, duties of.

§ 788. It shall be the duty of the city clerk to keep a full and true record of all the proceedings of the board of trustees and of the board of equalization. The proceedings of the board of trustees shall be kept in a book, marked "Records of the Board of Trustees." The proceedings of the board of equalization shall be kept in a separate book, marked "Records of the Board of Equalization." He shall keep a book, which shall be marked "City Accounts," in which shall be entered as a credit all moneys received by the city for licenses, the amount of any tax when levied, and all other moneys received; and in which shall be entered upon the debtor side all commissions deducted, and all warrants drawn on the treasury. He shall also keep a book, marked "Marshal's Account," in which he shall charge the city marshal with all the tax lists, if any, delivered to him, and all licenses delivered to him. He shall credit the marshal with the delinquent lists returned by him. He shall also keep a book, marked "Treasurer's Account," in which he shall keep a full account of the transactions of the city with the treasurer. He shall also keep a book, marked "City Licenses," in which he shall enter all licenses

delivered by him to the marshal, and the amount thereof. He shall also keep a book, marked "City Ordinances," into which he shall copy all city ordinances, with his certificate annexed to said copy, stating the foregoing ordinance is a true and correct copy of an ordinance of such city, and giving the number and title of said ordinance, and stating that the same has been published or posted according to law. Said record copy, with said certificate, or the original ordinance, shall be prima facie evidence of the contents of the ordinance and of the due passage and publication of the same, and shall be admissible as such evidence in any court or proceeding. Said records shall not be filed in any case, but shall be returned to the custody of the city clerk. Nothing herein contained shall be construed to prevent the proof of the passage and publication of ordinances in the usual way. Each of the foregoing books, except the records of the board of trustees and the board of equalization, shall have a general index, sufficiently comprehensive to enable a person readily to ascertain matters contained therein. The city clerk shall also keep a book, marked "Demands and Warrants," in which he shall note every demand against the city, and file the same. He shall state therein, under the note of the demands, the final disposition made of the same; and if the same is allowed and a warrant is drawn, he shall also state the number of the warrant, with sufficient dates. This book shall contain an index, in which reference shall be made to each demand. Upon the completion of the assessment-roll for any of the taxes of the city, and levying of the tax thereon, the city clerk shall apportion the taxes upon such assessment-roll, and shall deliver it to the officer charged with the duty of collecting taxes. It shall not be necessary to make a duplicate assessment-roll. He may appoint a deputy, for whose acts he and his bondsmen shall be responsible; and he and his deputy shall have power to administer oaths and affirmations, to take affidavits and depositions to be used in any court or proceeding in the state, and to certify the same. He and his deputies shall take all necessary affidavits to demands against the city, and certify the same without charge. He shall be the custodian of the seal of such city. He shall make a quarterly statement, in writing, showing the receipts and expenditures of the city for the preceding quarter, and the amount remaining in the treasury. He shall, at the end of every fiscal year, make a full and detailed statement of the receipts and expenditures of the preceding year, and a full statement of the financial condition of the affairs of the city, which shall be published. He shall perform such other services as this act and the ordinances of the board of trustees shall require. [Amendment approved March 19, 1889. Stats. 1889, p. 389. In effect immediately.]

City attorney.

§ 789. It shall be the duty of the city attorney to advise the city authorities and officers in all legal matters pertaining to the business of said city, and to render such other services in the line of his profession as may be required of him by the board of trustees. [Amendment approved March 19, 1889. Stats. 1889, p. 389. In effect immediately.]

Police department under control of city marshal.

§ 790. The department of police of said city shall be under the direction and control of the city marshal; and for the suppression of any riot, public tumult, disturbance of the peace, or resistance against the laws or public authorities in the lawful exercise of their functions, he shall have the powers that are now or may hereafter be conferred upon sheriffs by the laws of the state, and shall, in all respects, be entitled to the same protection; and his lawful orders shall be promptly executed by deputies, police officers and watchmen in said city, and every citizen shall also lend him aid, when required, for the arrest of offenders and maintenance of public order. He shall and is hereby authorized to execute and return all process issued and directed to him by any legal authority. It shall be his duty to prosecute before the recorder all breaches or violations of or noncompliance with the city ordinance which shall come to his knowledge. He shall collect all taxes levied by the board of trustees, except as is herein provided. He shall, at the expiration of any month, pay to the city treasurer all taxes and other funds of said city collected by him during said month. He shall, upon payment of the money, file with the treasurer an affidavit, stating that the money so paid is all the taxes or funds that he has collected or received during the preceding month. He shall, upon the receipt of any tax list, give his receipt for the same to the city clerk, and shall, upon depositing with the city clerk the delinquent tax list, take his receipt therefor. He shall receive from the clerk all city licenses and collect the same. He shall have charge of the city prison and prisoners, and of any chain-gang which may be established by the board of trustees. He shall, for service of any process, receive the same fees as constables. He may appoint, subject to the approval of the board of trustees, one or more deputies, for whose acts he and his bondsmen shall be responsible, whose only compensation shall be fees for the service of process, which shall be the same as those allowed to the city marshal. He may also, with the concurrence of the president of the board of trustees, when the same may be by them deemed necessary for the preservation of public order, appoint additional policemen, who shall discharge the duties assigned them for one day only. He shall perform such other services as this act and the ordinances of the board of trustees shall require, and shall receive such compensation from the city as shall be fixed by ordinance, in addition to such mileage and fees as he shall receive in the service of process of the courts of this state, other than the recorder's court of such city, which mileage and fees shall be the same as is allowed by law to constables in the county in which such city is situated. [Amendment approved March 23, 1893. Stats. 1893, p. 299.]

Board to fix compensation.

§ 791. The board of trustees shall, by ordinances not inconsistent with the provisions of this chapter, prescribe the additional duties of all officers, and fix their compensation.

Article V.—School Department.**School district.**

§ 795. From and after the organization of each of such cities, the same shall constitute a separate school district, which shall be governed by the board of education of such city; provided the board of supervisors may include more territory in such school district than that included in such city, and in that case such outside territory shall be deemed a part of such city for the purpose of holding the general municipal election, and shall be an election precinct by itself and its qualified electors shall vote only for the board of education, and said outside territory shall be deemed to be a part of said city for all matters connected with the school department, and the annual levying and collecting of the property tax for the school fund. [Amendment approved March 10, 1891. Stats. 1891, p. 28.]

Vacancy in board.

§ 796. In case a vacancy shall occur in the office of school director, the board of education shall choose a person to fill such vacancy, who shall serve until the next election, when, if the term does not then expire, a person shall be elected to serve for the remainder of such unexpired term.

Meetings.

§ 797. The board of education shall meet on the second Tuesday after such general municipal election, and choose one of its members as president, and shall appoint a secretary, who shall hold at the pleasure of said board. The regular meetings of said board shall thereafter be held as often as once in each month, in the place provided for the board of trustees, and the time for holding such meetings shall be fixed by the board of education. Special meetings of said board may be held when called by written notice, signed by its president, or three of its members, and delivered personally to each of its members who shall not have signed the same. Three members shall constitute a quorum, and no business shall be transacted by said board of education without the concurrence of three of its members; but a majority of the members present at any meeting may adjourn from time to time. All the meetings of said board of education shall be public, and full records of its proceedings shall be kept by the secretary of said board. The members of the board of education shall receive no compensation for their services as school directors. [Amendment approved March 7, 1891. Stats. 1894, p. 114.]

 Powers of board.

§ 798. The board of education shall have power:

1. To establish and maintain public, primary, kindergarten, grammar, and evening schools, and to subdivide the school districts, and to fix and alter the boundaries of such divisions.
2. To employ and dismiss a superintendent of schools, teachers, janitors, truant officers, and school-census marshals, and to fix, alter, allow

and order paid their salaries or compensations; and to employ and pay such mechanics and laborers as may be necessary to carry into effect the powers hereby conferred.

3. To make, establish, and enforce all necessary or proper rules and regulations, not in conflict with the laws of this state, for the government and management of public schools within such city, the teachers thereof, and the pupils therein, and for carrying into effect the laws relating to education.

4. To provide for the school department of such city, fuel and lights, water, printing, and stationery, and to incur such other incidental expenses as may be deemed necessary by said board.

5. To build, alter, repair, rent and provide schoolhouses, and to furnish the same with proper school furniture, apparatus, and appliances, and to insure any and all school property.

6. To purchase, receive, lease, and hold in fee, in trust for such city, any and all real estate and personal property that may have been acquired, or may hereafter be acquired, for the use and benefit of the schools of such city; provided, that no real estate shall be bought, sold, or exchanged, nor any expenditure incurred for the construction of new schoolhouses, without the approval of the board of trustees; and provided further, that the proceeds of any such sale or exchange of real estate shall be exclusively applied to the purchase of other lots for the erection of schoolhouses.

7. To grade, fence, and improve all school lots.

8. To determine annually the amount of money required for the support of the public schools, and for carrying into effect all the provisions of law in reference thereto; and in pursuance of this provision, the board of education shall, at least ten days before the meeting of the board of trustees at which the annual city taxes are levied, submit in writing to the board of trustees a careful estimate of the whole amount of money to be received from the state and county, and of the amount to be required from such city for the above-mentioned purposes; and the amount so found to be required from the city shall, by the board of trustees, be added to the above amounts to be assessed and collected for city purposes, and when collected, the proceeds thereof shall be immediately paid into the school fund of such city, to be drawn out only upon the order of the board of education; provided, that such annual tax shall not exceed twenty-five cents on each one hundred dollars of the assessed valuation of the real and personal property within such city.

9. To establish regulations for the just and equal disbursement of all moneys belonging to the school fund.

10. To discharge all legal encumbrances existing at the time of the incorporation of such city, or thereafter, on any school property within such city.

11. To admit nonresident children, and persons over twenty-one years of age, to any of the departments of the schools of such city, upon the payment monthly, in advance, of such tuition fee as said board may establish.

12. To prohibit any children under six years of age from attending the public schools.

13. To establish and regulate the grades of schools in such city, and the course of study, and the mode of instruction to be pursued therein, and determine what text-books shall be used.

14. To do and perform, in addition to the foregoing powers, such other acts as may be necessary or proper to carry into effect the powers hereby conferred. [Amendment adopted March 14, 1899. Stats. 1899, p. 98.]

Board may sue and be sued.

§ 799. The board of education may sue and be sued by their name of office. In any action or judicial proceeding against said board, service of process upon the president, or upon a majority of the members of the board shall be sufficient to give the court jurisdiction to hear and determine the same.

Treasurer custodian of moneys.

§ 800. All moneys received by the treasurer of the county wherein such city may be situated, on account of the school fund of such city, or the school district consisting of the same, and all sums received into the county treasury, which may be apportioned to said city or district, shall be paid to the treasurer of such city, by the treasurer of such county, as soon as received, or as soon as the apportionment shall be made, when apportionment is necessary, upon the order of the board of education.

Demands.

§ 801. The president of the board of education shall have power to administer oaths and affirmations concerning any demand upon the treasury, payable out of the school fund, and in all other matters relating to the duties of the board of education, and to witnesses examined in any investigation had by such board of education, or by a committee thereof, duly appointed by it, for that purpose.

President may compel witnesses.

§ 802. Said president may issue subpoenas under his hand and the seal of such city, attested by the city clerk, to compel the attendance of witnesses before such board of education, or committee thereof, who shall be entitled to the same fees as witnesses in civil cases, and who may be punished for contempt for nonattendance, or refusal to be sworn, or to answer, by the superior court of the county in which such city may be situated.

Warrants.

§ 803. Every claim payable out of the school fund shall be filed with the secretary of the board of education, and after it shall have been approved by the board a certificate of such approval shall be indorsed thereon, signed by the president and secretary, and a warrant upon the school fund shall be issued thereon for the payment of such claim, which warrant shall be signed by the president of such board, and countersigned by the secretary and shall specify for what purpose the same is drawn.

Duties of secretary.

§ 804. The secretary shall report to the board annually, and at such other times as they may require, all matters pertaining to the expense, income, condition, and progress of the public schools of said city during the preceding year, with such recommendations as he may deem proper. He shall observe, and cause to be observed, such general rules and regulations for the government of and instruction in the schools, not inconsistent with the laws of the state, as may be established by the board of education. He shall attend the sessions of the board, and inform them at each session of the condition of the public schools, schoolhouses, school funds, and other matters connected therewith, and recommend such measures as he may deem necessary for the advancement of education in the city, and shall perform such other duties as may be required of him by the board. He shall receive as compensation for his services, payable out of the school fund, such sum as the board of education from time to time may allow.

Fund shall not be diverted.

§ 805. The entire revenue derived by such city from the state school fund and the state school tax shall be applied by said board of education exclusively to the support of primary and grammar schools.

Article VI.—Judicial Department.**Recorder's court.**

§ 806. A recorder's court is hereby established in such city, to be held by the recorder of such city; provided, that the provisions of this section as to the establishment of the recorder's courts and recorders in such city shall not apply to any such city in which a city justice's court or a city justice of the peace is now or may hereafter be established, and any recorder's court now existing in any such last-mentioned city is hereby abolished. The justice of the peace of any city wherein said recorder's court shall have been abolished or which may hereafter be abolished is the successor of the recorder of such city whose court has been abolished as aforesaid; and all records, registers, dockets, books, papers, causes, actions, and proceedings lodged, deposited, or pending before said recorder's court or before the recorder of said city, are transferred to the justice's court of said city, which shall have the same power and jurisdiction over them as if they had been in the first instance lodged, deposited, filed, or commenced therein. Said recorder's court shall have jurisdiction, concurrently with the justice's court, of all actions and proceedings, civil and criminal, arising within the corporate limits of such city, and which might be tried in such justice's court; and shall have exclusive jurisdiction of all actions for the recovery of any fine, penalty, or forfeiture prescribed for the breach of any ordinance of such city, of all actions founded upon any obligation or liability created by any ordinance, and of all prosecutions for any violation of any ordinance. In all civil actions for the recovery of any fine, penalty, or forfeiture prescribed for the breach of any ordinance of such city, where the fine, penalty or forfeiture imposed by the ordinance is not more than

fifty dollars, the trial must be by the court, in civil actions where the fine, penalty or forfeiture prescribed for the breach of any ordinance of such city is over fifty dollars, the defendant is entitled to a jury. Except as in this section otherwise provided, the rules of practice and mode of proceeding in said recorder's court shall be the same as are or may be prescribed by law for justices' courts in like cases, and appeals may be taken to the superior court of the county in which such city may be situated, from all judgments of said recorder's court in like manner and with a like effect as in cases of appeals from justices' courts. [Amendment approved March 15, 1907. Stata. 1907, p. 272. In effect immediately.]

Powers of recorder as judge.

§ 807. The recorder shall be judge of the recorder's court, and shall have the powers and perform the duties of a magistrate. He may administer and certify oaths and affirmations, and take and certify acknowledgments. He shall be entitled to charge and receive for his services such fees as are or may be allowed by law to justices of the peace for like services, except that for his services in criminal prosecution for violation of ordinances he shall be entitled to receive only such monthly salary as the board of trustees shall by ordinance prescribe; which compensation, when once fixed, shall not be altered within two years.

Recorder, when disqualified as judge.

§ 808. In all cases in which the recorder is a party, or in which he is interested, or when he is related to either party by consanguinity or affinity within the third degree, or is otherwise disqualified, or in case of sickness or inability to act, the recorder may call in a justice of the peace residing in the city, to act in his place and stead; or if there be no justice of the peace residing in the city, or if all those so residing are likewise disqualified, then he may call in any justice of the peace residing in the county in which such city may be situated.

Article VII.—Miscellaneous Provisions.

Collection of moneys.

§ 810. Every officer collecting or receiving any moneys belonging to or for the use of such city shall settle for the same with the clerk on the first Monday in each month, and immediately pay the same into the treasury, on the order of the clerk, for the benefit of the funds to which such moneys respectively belong.

No officer to be interested in contract.

§ 811. No officer of such city shall be interested, directly or indirectly, in any contract with such city, or with any of the officers thereof, in their official capacity, or in doing any work or furnishing any supplies for the use of such city or its officers in their official capacity; and any claim for compensation for work done, or supplies or materials furnished, in which any such officer is interested, shall be void, and if audited and allowed shall not be paid by the treasurer. Any willful violation of the

provisions of this section shall be a ground for removal from office, and shall be deemed a misdemeanor, and punished as such.

Nuisances.

§ 812. Every act or thing done or being within the limits of such city, which is or may be declared by law or by any ordinance of such city to be a nuisance, shall be and is hereby declared to be a nuisance, and shall be considered and treated as such in all actions and proceedings whatever; and all remedies which are or may be given by law for the prevention and abatement of nuisances shall apply thereto.

Fire departments.

§ 813. The fire department of a city of the fifth class shall consist of companies of volunteer or paid firemen, as the board of trustees may determine, organized into engine, hose, or hook-and-ladder companies. Such fire department, except where the same comprises one or more companies of paid firemen, and such companies of volunteer firemen, shall elect their own officers: but the board of trustees shall appoint the chief and other officers of such department, where the same comprises one or more companies of paid firemen. The election of any person as chief of any such volunteer fire department shall be forthwith certified by the secretary of said department to the board of trustees of such city, and by them, at their next regular meeting, confirmed. The chief of the fire department shall give a bond to the chairman of the board of trustees of such city, in the sum of one thousand dollars; the chief of every fire department shall inquire into the cause of every fire occurring in the city, and keep a record thereof. He shall have exclusive control of the working of the fire department in time of conflagration or fire. He must aid in the enforcement of all fire ordinances duly enacted, examine buildings in process of erection, report violation of ordinances relating to the prevention and extinguishment of fires when directed by the proper authorities, and institute proceedings therefor, and shall have general control, management, and direction of the fire companies, hose, hook-and-ladder companies, and engine, and fire departments of such city, and shall perform such other duties as may be by the ordinances of said city, or by law, imposed upon him. His compensation, which shall not be less than ten dollars per month, must be fixed and paid by the board of city trustees. [Amendment approved February 20, 1905. Stats. 1905, p. 16. In effect immediately.]

CHAPTER VII.

Municipal Corporations of the Sixth Class.

(A charter for cities and towns having a population of not exceeding 3,000.)

For an act to enable municipal corporations of the sixth class to elect officers, see Act 2850, post.

Article I.—General Powers.

Sixth Class.

§ 850. Every municipal corporation of the sixth class shall be entitled the city (or town) of — (naming it), and by such name shall have

perpetual succession, may sue and be sued in all courts and places, and in all proceedings whatever; shall have and use a common seal, alterable at the pleasure of the city or town authorities, and may purchase, lease, receive, hold, and enjoy real and personal property, and control and dispose of the same for the common benefit.

Article II.—General Provisions Relating to Officers.

Officers.

§ 851. The government of such city or town shall be vested in a board of trustees, to consist of five members; a clerk, who shall be ex-officio assessor; a treasurer; a marshal, who shall be ex-officio tax and license collector; a recorder to be appointed by the board of trustees; and such subordinate officers as are hereinafter provided for. [Amendment approved March 27, 1895. Stats. 1895, p. 266.]

Election and tenure of office.

§ 852. The members of the board of trustees and the clerk, treasurer, and marshal shall be elected by the qualified electors of said city or town at a general municipal election to be held therein on the second Monday in April in each even-numbered year. The clerk, treasurer, and marshal shall hold office for the period of two years from and after the Monday next succeeding the day of such election, and until their successors are elected and qualified. Members of the board of trustees shall hold office for the period of four years from and after the Monday next succeeding the day of such election, and until their successors are elected and qualified; provided, that the first board of trustees elected under the provisions of this act shall, at their first meeting, so classify themselves by lot as that three of their number shall go out of office at the expiration of two years and two at the expiration of four years. The board of trustees may, in their discretion, appoint an attorney, a poundmaster, a superintendent of streets, a civil engineer, and such police and other subordinate officers as in their judgment may be deemed necessary, and fix their compensation, which said officers shall hold office during the pleasure of said board.

Official bonds.

§ 853. The clerk, treasurer, and marshal shall, respectively, before entering upon the duties of their respective offices, each execute a bond to such city or town in such penal sum as the board of trustees by ordinance may determine, conditioned for the faithful performance of his duties, including in the same bond the duties of all offices of which he is made by this chapter ex-officio incumbent; such bonds shall be approved by the board of trustees. All bonds, when approved, shall be filed with the clerk, except the bond of the clerk, which shall be filed with the president of the board of trustees. All the provisions of any law of this state relating to the official bonds of officers shall apply to such bonds, except as herein otherwise provided. Every officer of such city, before entering upon the duties of the office, shall take and file with the clerk the constitutional oath of office.

Vacancies, how filled.

§ 854. Any vacancy occurring in any of the offices provided for in this act shall be filled by appointment by the board of trustees; but if such office be elective, such appointee shall hold office only until the next regular election, at which time a person shall be elected to serve for the remainder of such unexpired term. In case a member of the board of trustees is absent from the city for the period of ninety days, unless by permission of the board of trustees, his office shall by the board be declared vacant, and the same filled as in case of other vacancies.

Trustees, compensation may be granted by electors.

§ 855. The members of the board of trustees shall receive no compensation whatever; provided, that in all such cities, the question of whether the members of such board or any of them shall receive any compensation for his services as such member and the amounts thereof, may be submitted to the qualified electors of such cities at any general election, and if a majority of such electors voting at such election shall vote in favor thereof, then such trustee or trustees shall receive the compensation specified in the call submitting such question at such election; such compensation to begin on the first day of the month next succeeding the canvass of the return of such election and the amount so fixed shall, from such date, be a regular charge against such city, payable the same as other fixed salaries are paid. Such compensation may be increased or diminished at any general election thereafter, by submission of such question in the same manner and by the same vote as herein provided for the original creation of such compensation.

The clerk, treasurer, marshal, and recorder shall severally receive, at stated times, a compensation, to be fixed by ordinance by the board of trustees, which compensation shall not be increased or diminished after their election, or during their several terms of office. Nothing herein contained shall be construed to prevent the board of trustees from fixing such several amounts of compensation in the first instance, during the term of office of any such officer, or after his election. The compensation of all other officers shall be fixed from time to time by the board of trustees. [Amendment approved March 6, 1909. Stats. 1909, p. 148. In effect immediately.]

Election provisions.

§ 856. All elections in such city or town shall be held in accordance with the general election laws of the state, so far as the same may be made applicable; and no person shall be entitled to vote at such election unless he shall be a qualified elector of the county, enrolled upon the great register thereof, and shall have resided in such city for at least thirty days next preceding such election. The board of trustees shall give such notice of each election as may be prescribed by ordinance, shall appoint boards of election, and fix their compensation, and establish election precincts and polling-places, and may change the same. At any municipal election the last printed great register of the county shall be used, and any elector whose name is not upon such printed register shall be

entitled to vote upon producing and filing with the board of election a certificate, under the hand and official seal of the county clerk, showing that his name is registered and uncanceled upon the great register of such county; provided, that he is otherwise entitled to vote.

Eligibility to office.

§ 857. No person shall be eligible to or hold any elective office in such city, unless he be a resident and elector therein, and shall have resided in such city for one year next preceding the date of such election. [Amendment, became a law under constitutional provision without governor's approval, March 14, 1901. Stats. 1901, p. 293. In effect immediately.]

Article III.—Legislative Department.

Board of trustees.

§ 858. The board of trustees shall meet on the Monday next succeeding the date of said general municipal election, shall take the oath of office, shall choose one of their number president, and shall hold regular meetings at least once in each month, at such times as they shall fix by ordinance. Special meetings may be called at any time by the president of the board, or by three trustees, by written notice delivered to each member, at least three hours before the time specified for the proposed meeting. All meetings of the board of trustees shall be held within the corporate limits of the city, at such place as may be designated by ordinance, and shall be public.

Meetings.

§ 859. At any meeting of the board of trustees a majority of the trustees shall constitute a quorum for the transaction of business, but a less number may adjourn from time to time, and may compel the attendance of absent members in such manner and under such penalties as may be prescribed by ordinance. The president of the board shall preside at all meetings of the board, and in case of his absence the board may appoint a president pro tem.; and in case of the absence of the clerk, the president or president pro tem. shall appoint one of the members of the board clerk pro tem.

Rules.

§ 860. The board of trustees shall judge of the qualifications of its members and of all election returns, and determine contested elections of all city officers. They may establish rules for the conduct of their proceedings, and punish any member or other person for disorderly behavior at any meeting. They shall cause the clerk to keep a correct journal of all their proceedings, and at the desire of any member shall cause the ayes and noes to be taken on any question, and entered on the journal.

Franchises and resolutions to pay money.

§ 861. No ordinance, and no resolution granting any franchise for any purpose, shall be passed by the board of trustees on the day of its introduction, nor within five days thereafter nor at any other than a

regular meeting. No resolution or order for the payment of money shall be passed at any other time than at a regular meeting. And no such ordinance, resolution, or order shall have any validity or effect unless passed by the votes of at least three trustees.

Powers.

§ 862. The board of trustees of said city shall have power:

Ordinances.

1. To pass ordinances not in conflict with the constitution and laws of this state or of the United States.

Real estate.

2. To purchase, lease, or receive such real estate situated inside or outside of the city limits and personal property as may be necessary or proper for municipal purposes and to control, dispose of, and convey the same for the benefit of the city or town; provided, they shall not have power to sell or convey any portion of any waterfront.

Water.

3. To contract for supplying the city or town with water for municipal purposes, or to acquire, construct, repair, and manage pumps, aqueducts, reservoirs, or other works necessary or proper for supplying water for the use of such city or the inhabitants, or for irrigating purposes therein.

Highways.

4. To establish, build and repair bridges; to establish, lay out, alter, keep open, improve, and repair streets, sidewalks, alleys, and other public highways, squares and parks, and places within the city or town, and to drain, sprinkle, oil, and light the same; to remove all obstructions therefrom; to establish the grades thereof; to grade, pave, macadamize, gravel, and curb the same, in whole or in part, and to construct gutters, culverts, sidewalks, and cross-walks therein, or on any part thereof; to cause to be planted, set out, and cultivated, shade trees therein; and generally to manage and control all such highways and places; and in the exercise of the powers herein granted to expend, in their discretion, the ordinary annual income and revenue of the municipality in payment of the costs and expenses of the whole or any part of such work or improvement.

Sewers.

5. To construct, establish, and maintain drains and sewers.

Fire extinguishers.

6. To provide fire-engines and all other necessary and proper apparatus for the prevention and extinguishment of fires.

Poll tax.

7. To impose on and collect from every male inhabitant between the ages of twenty-one and sixty years, an annual street poll tax, not exceeding two dollars; and no other road poll tax shall be collected within the limits of the city.

Dog tax.

8. To impose and collect an annual license not exceeding two dollars on every male dog, and four dollars on every female dog owned or harbored within the limits of the city.

Property tax.

9. To levy and collect annually a property tax, which shall not exceed one dollar on each one hundred dollars.

Licenses.

10. To license, for the purpose of revenue and regulation, all and every kind of business authorized by law and transacted and carried on in such city or town, and all shows, exhibitions, and lawful games carried on therein; to fix the rates of license tax upon the same, and to provide for the collection of the same by suit or otherwise.

Waterfront improvement.

11. To improve the rivers and streams flowing through such city or adjoining the same; to widen, straighten, and deepen the channels thereof, and remove obstructions therefrom; to improve the waterfront of the city; to construct and maintain embankments and other works, to protect such city from overflow; and to acquire, own, construct, maintain, and operate on any lands bordering on any navigable bay, lake, inlet, river, creek, slough, or arm of the sea within the corporate limits of such city or contiguous thereto, wharves, chutes, piers, breakwaters, bath-houses, and life-saving stations.

Public buildings.

12. To erect and maintain buildings for municipal purposes, and to acquire and maintain cemeteries, situated inside or outside of said city.

Tracks and pipes.

13. To acquire, own, construct, maintain, and operate street railways, telephone and telegraph lines, gas and other works for light, power, and heat; public libraries, museums, gymnasiums, parks, and baths, and to permit under such restrictions as they may deem proper, the laying of railroad tracks and the running of cars drawn by horses, steam, or other power thereon, and the laying of gas and water pipes in the public streets, and to permit the construction and maintenance of telegraph and telephone lines therein.

Violation of ordinances.

14. To impose fines, penalties, and forfeitures for any and all violations of ordinances; and for any breach or violation of any ordinance; to fix the penalty by fine or imprisonment, or both; but no such fine shall exceed three hundred dollars, nor the term of imprisonment exceed three months.

Prison labor.

15. To cause all persons imprisoned for violation of any ordinance to labor on the streets, or other public property, or works within the city.

Fire limits.

16. To establish and maintain fire limits, and regulate building and construction and removal of buildings within the municipality.

Issuance of subpoenas.

17. To issue subpoenas for the attendance of witnesses, or the production of books or other documents, for the purpose of producing evidence or testimony in any action or proceeding pending before the board of trustees, which subpoenas must be signed by the president of the board of trustees and attested by the city clerk and may be served in the same manner as subpoenas are served in civil actions. Whenever any person duly subpoenaed to appear

and give evidence, or to produce any books or any documents as herein provided, shall neglect or refuse to appear, or to produce such books or documents, as required by such subpoena, or shall refuse to testify before such board, or to answer any questions which a majority thereof shall decide to be proper and pertinent, it shall be the duty of the president of the board to report the fact to the judge of the superior court of the county, who shall thereupon issue an attachment in the form usual in the court of which he shall be judge, directed to the sheriff of the county where such witness was required to appear and testify, commanding the said sheriff to attach such person, and forthwith bring him before the judge by whose order such attachment was issued. On the return of the attachment and the production of the body of the defendant, the said judge shall have jurisdiction of the matter, and the person charged may purge himself of the contempt in the same way, and the same proceedings shall be had, and the same penalties may be imposed, and the same punishment inflicted as in the case of a witness subpoenaed to appear and give evidence on the trial of a civil cause before a superior court.

Expenditure.

18. To expend such sum as the board of trustees shall deem proper, not to exceed five per cent of the property tax levy in any one fiscal year, for music and promotion.

Other acts.

19. To do and perform any and all other acts and things necessary or proper to carry out the provisions of this act. [Amendment approved March 19, 1909. Stats. 1909, p. 420. In effect immediately.]

Enacting clause.

§ 863. The enacting clause of all ordinances shall be as follows: "The board of trustees of the city (or town) of —, do ordain as follows." Every ordinance shall be signed by the president of the board of trustees, attested by the clerk, and published at least once in a newspaper published in such city or town, or printed and posted in at least three public places therein.

Demands.

§ 864. All demands against such city or town shall be presented to and audited by the board of trustees, in accordance with such regulations as they may by ordinance prescribe; and upon the allowance of any such demand, the president of the board shall draw a warrant upon the treasurer for the same, which warrant shall be countersigned by the clerk, and shall specify for what purpose the same is drawn, and out of what fund it is to be paid.

Indebtedness not to exceed available funds.

§ 865. The board of trustees shall not create, audit, allow, or permit to accrue, any debt or liability in excess of the available money in the treasury that may be legally apportioned and appropriated for such purposes; provided, that any city or town during the first year of its existence under this act may incur such indebtedness or liability as may be necessary, not exceeding in all the income and revenue provided for it in such year; nor shall any warrant be drawn, or evidence of indebtedness be issued, unless there be at

the time sufficient money in the treasury legally applicable to the payment of the same, except as hereinafter provided.

Incurring excess decided by vote.

§ 866. If at any time the board of trustees shall deem it necessary to incur any indebtedness in excess of the money in the treasury applicable to the purpose for which such indebtedness is to be incurred, they shall give notice of a special election by the qualified electors of the city or town, to be held to determine whether such indebtedness shall be incurred. Such notice shall specify the amount of indebtedness proposed to be incurred, the purpose or purposes of the same, and the amount of money necessary to be raised annually, by taxation, for an interest and sinking fund as hereinafter provided. Such notice shall be published for at least two weeks in some newspaper published in such city or town; and no other question or matter shall be submitted to the electors at such election. If upon a canvass of the votes cast at such election it appears that not less than two-thirds of all the qualified electors voting at such election shall have voted in favor of incurring such indebtedness, it shall be the duty of the board of trustees to pass an ordinance providing for the mode of creating such indebtedness, and of paying the same; and in such ordinance provision shall be made for the levy and collection of an annual tax upon all the real and personal property subject to taxation within such city or town, sufficient to pay the interest on such indebtedness as it falls due; and also to constitute a sinking fund for the payment of the principal thereof, within a period of not more than twenty years from the time of contracting the same. It shall be the duty of the board of trustees, in each year thereafter, at the time at which other taxes are levied, to levy a tax sufficient for such purpose, in addition to the taxes by this chapter authorized to be levied. Such tax, when collected, shall be kept in the treasury as a separate fund, to be inviolably appropriated to the payment of the principal and interest of such indebtedness.

Incarceration.

§ 867. The violation of any ordinance of such city or town shall be deemed a misdemeanor, and may be prosecuted by the authorities of such city or town in the name of the people of the state of California, or may be redressed by civil action, at the option of said authorities. Any person sentenced to imprisonment for the violation of an ordinance may be imprisoned in the jail for such city or town; or if the board of trustees by ordinance shall so prescribe, in the county jail of the county in which such city or town may be situated, in which case the expense of such imprisonment shall be a charge in favor of such county and against such city or town.

Nuisances.

§ 868. Every act or thing done or being within the limits of such city or town, which is or may be declared by law or by any ordinance of such city or town to be a nuisance, shall be and is hereby declared to be a nuisance, and shall be considered and treated as such in all actions and proceedings whatever; and all remedies which are or may be given by law for the prevention and abatement of nuisances shall apply thereto.

Cost of street work assessed on fronting property.

§ 869. The board of trustees are hereby authorized and empowered to order any work authorized by this chapter to be done upon the streets, avenues,

highways, and public places of such city or town. The cost and expense incurred therefor shall be paid as follows, to wit: The expense or cost of improving and repairing streets, sidewalks, alleys, squares, and other public highways and places within the city or town, removing obstructions therefrom; grading, paving, macadamizing, graveling, and curbing the same, and constructing gutters, culverts, and sidewalks therein, shall be assessed upon the lots and lands fronting thereon, each lot or portion of a lot being separately assessed for the full depth thereof in proportion to the benefits upon the property to be benefited, sufficient to cover the total expense of the work to the center of the street on which it fronts; provided, that the board of trustees may expend from the general fund for said purposes a sum which in their judgment may be necessary. The expense of all improvements in the space formed by the junction of two or more streets, or where one main street terminates in or crosses another main street, and also all necessary street crossings, or crossways at corners or intersection of streets, and the expense of establishing, building, and repairing bridges in such city or town, shall be paid by such city or town. The expense incurred in making and repairing sewers in any street shall be paid, one-fourth by the owner of the lands on one side of said street, one-fourth by the owner of the land on the other side of said street, and one-half by the city or town out of the sewer fund. In all the streets constituting the waterfront of such city or town, or bounded on the one side by the property thereof, the expense of work done on that portion of said streets, from the center line thereof to the said waterfront, or to such property of the city or town bounded thereon, shall be paid for by such city or town, but no contract for any such work shall be given except to the lowest responsible bidder, and in the manner hereinafter provided. When any work or improvements mentioned in this section is done or made on one side of the center line of said streets, avenues, or public highways, the lots or portions of lots fronting on that side only shall be assessed to cover the expenses of said work according to the provisions of this chapter. Whenever any expenses or costs of work shall have been assessed on any lands, the amount of said expenses shall become a lien upon said lands, which shall take precedence of all other liens, and which may be foreclosed in accordance with the provisions of the Code of Civil Procedure. Such suit shall be in the name of such city or town as plaintiff. Upon the filing of a complaint in the superior court to enforce a lien of any kind hereon, the plaintiff shall be entitled, if a recovery is had or the money is paid, to include as costs the sum of twenty-five dollars as attorney's fees.

Right of way.

§ 870. Whenever it shall become necessary for the city or town to take or damage private property for the purpose of establishing, laying out, extending and widening streets and other public highways and places within the city or town, or for the purpose of rights of way for drains, sewers and aqueducts, and for the purpose of widening, straightening or diverting the channels of streams, or the improvement of waterfronts, or the acquisition or maintenance of public harbors, the trustees may direct proceedings to be taken under section 1237 and following sections, to and including section 1263 of the Code of Civil Procedure, to procure the same. [Amendment approved February 20, 1901. Stats. 1901, p. 12. In effect immediately.]

Levy of taxes.

§ 871. The board of trustees shall have the power, and it shall be their duty, to provide by ordinance a system for the assessment, levy, and collection of all city or town taxes not inconsistent with the provisions of this chapter. All taxes shall be collected by the marshal or treasurer, as may be determined by the board of trustees by ordinance. All taxes assessed, together with any percentage imposed for delinquency and the costs of collection, shall constitute liens on the property assessed; every tax upon personal property shall be a lien upon the real property of the owner thereof. The liens provided for in this section shall attach as of the first Monday in March of each year, and may be enforced by a sale of the real property affected, and the execution and delivery of all necessary certificates and deeds therefor, under such regulations as may be prescribed by ordinance, or by action in any court of competent jurisdiction to foreclose such liens; provided, that any property sold for such taxes shall be subject to redemption within five years and upon the terms provided or that may hereafter be provided for the redemption of property sold for state taxes. All deeds made upon any sale of property for taxes or special assessments under the provisions of this chapter shall have the same force and effect in evidence as is or may hereafter be provided by law for deeds for property sold for nonpayment of state taxes. [Amendment approved March 8, 1905. Stats. 1905, p. 89.]

Section 3 of the act amending this section and section 773 is as follows:

§ 3. This act shall not repeal, or in any manner affect, modify, or interfere with the provisions of an act entitled "An act to provide for the levy and collection of taxes by and for the use of municipal corporations and cities incorporated under the laws of the state of California, except municipal corporations of the first class, and to provide for the consolidation and abolition of certain municipal offices, and to provide that their duties may be performed by certain officers of the county, and fixing the compensation to be allowed for such county officers for the services so rendered to such municipal corporations," approved March 27, 1895; or any of the provisions of an act entitled "An act to provide for the levy and collection of taxes by and for the use of municipal corporations and cities incorporated under the laws of the state, except municipal corporations of the first, second, third and fourth classes, and cities operating under a charter framed under section 8, article 11, of Constitution," approved March 2, 1891.

Equalization.

§ 872. The board of trustees shall meet at their usual place of holding meetings on the second Monday of August of each year, at 10 o'clock in the forenoon of said day, and sit as a board of equalization, and shall continue in session from day to day until all the returns of the assessor have been rectified. They shall have power to hear complaints, and to correct, modify, or strike out any assessment made by the assessor, and may, of their own motion, raise any assessment, upon notice to the party whose assessment is to be raised. The corrected list for each tax shall be the assessment-roll for said tax for said year. It shall be certified by the clerk, who shall act as clerk of the board of equalization, as being

the assessment-roll for said tax, and shall be the assessment-roll upon which such tax is to be levied in said year.

Construction of act.

§ 873. Nothing in this chapter contained shall be construed to prevent any city or town having a bonded indebtedness, contracted under laws heretofore passed, from levying and collecting such taxes for the payment of such indebtedness, and the interest thereon, as are provided for in such laws, in addition to the taxes herein authorized to be levied and collected. All moneys received from licenses, street poll tax, and from fines, penalties, and forfeitures, shall be paid into the general fund.

Public work to be done by contract.

§ 874. In the erection, improvement, and repair of all public buildings and works, in all street and sewer work, and in all work in or about streams, bays, or waterfronts, or in or about embankments, or other works for protection against overflow, and in furnishing any supplies or materials for the same, when the expenditure required for the same exceeds the sum of one hundred dollars, the same shall be done by contract, and shall be let to the lowest responsible bidder, after notice by publication in a newspaper of general circulation, printed and published in such city or town, for at least two weeks, or if there be no newspaper printed or published therein, by printing and posting the same in at least four public places therein for the same period; such notice shall distinctly and specifically state the work contemplated to be done; provided, that the board of trustees may reject any and all bids presented and re-advertise, in their discretion. The board of trustees shall annually, at a stated time, contract for doing all city printing and advertising, which contract shall be let to the lowest bidder, after notice, as provided in this section. [Amendment approved March 9, 1897. Stats. 1897, p. 89.]

Signature of warrant and contracts.

§ 875. The president of the board of trustees shall preside over all meetings of the board at which he is present. In his absence a president pro tem. may be chosen. The president, and in his absence the president pro tem., shall sign all warrants drawn on the treasurer, and shall sign all written contracts entered into by said city or town, as such president or president pro tem. The authority and power of the president pro tem. shall continue only during the day on which he is chosen. The president and president pro tem. shall have power to administer oaths and affirmations, and take affidavits and testify the same under their hands. The president or president pro tem. shall sign all conveyances made by said city or town, and all instruments which shall require the seal of the city or town. The president is authorized to acknowledge the execution of all instruments executed by said city or town, that require to be acknowledged.

Article IV.—Executive Department.

Treasurer.

§ 876. It shall be the duty of the treasurer to receive and safely keep all moneys which shall come into his hands as treasurer, for all of which he shall give duplicate receipts, one of which shall be filed with the clerk.

He shall pay out said money or warrants signed by the president and countersigned by the clerk, and not otherwise. He shall make quarterly settlements with the clerk. When no compensation has been allowed to him by the board of trustees, he shall be allowed one per cent on all moneys received and paid by him as such treasurer. He may credit himself with such per cent in his settlements with the clerk. Upon each quarterly settlement he shall file a statement of his account with the clerk. [Amendment approved March 30, 1903. Stats. 1903, p. 336.]

Assessor.

§ 877. It shall be the duty of the assessor, between the first day of May and the first day of August in each year, to make out a true list of all the taxable property within the city or town. The mode of making out of said list, and proceedings relating thereto, shall be in conformity with laws now in force regulating county assessors, except as the same may be otherwise provided in this act, or by ordinance. Said list shall describe the property assessed, and the value thereof, and shall contain all other matters required to be stated in such lists by county assessors. Said assessor shall verify said list by his oath, and shall deposit the same with the clerk on or before the first Monday of August of each year. The assessor shall, during said time, also make a list of all male persons residing within the limits of the city or town, over the age of twenty-one years, and shall verify said list by his oath, and shall, on or before the first Monday of August in each year, deposit the same with the clerk. Said assessor and his deputy shall have power to administer all oaths and affirmations necessary in the performance of his duty.

Clerk.

§ 878. It shall be the duty of the clerk to keep a full, true record of all the proceedings of the board of trustees and of the board of equalization. The proceedings of the board of trustees shall be kept in a book, marked "Records of the Board of Trustees." The proceedings of the board of equalization shall be kept in a separate book, marked "Records of the Board of Equalization." He shall keep a book, which shall be marked "City or Town Accounts," in which shall be entered as a credit all moneys received by the city or town for licenses, the amount of any tax when levied, and all other moneys when received, and in which shall be entered upon the debtor side all commissions deducted and all warrants drawn on the treasury. He shall also keep a book, marked "Marshal's Account," in which he shall charge the marshal with all the tax lists delivered to him, and all licenses delivered to him. He shall credit the marshal with the delinquent lists returned by him, and with his commission for collecting. He shall also keep a book, marked "Treas-

urer's Account," in which he shall keep a full account of the transactions of the city or town with the treasurer. He shall also keep a book, marked "Licenses," in which he shall enter all licenses issued by him, the date thereof, to whom issued, for what, the time when it expires, and the amount paid. He shall also keep a book marked "Attorney's Account," and shall therein charge said attorney with all delinquent tax lists delivered to him, and shall credit him with money paid and delinquent tax lists returned. He shall keep a book, marked "Ordinances," into which he shall copy all city or town ordinances, with his certificate annexed to said copy stating the foregoing ordinance is a true and correct copy of an ordinance of the city or town, and giving the number and title of said ordinance, and stating that the same has been published or posted according to law. Said record copy, with said certificate, shall be prima facie evidence of the contents of the ordinance and of the passage and publication of the same, and shall be admissible as such evidence in any court or proceeding. Such records shall not be filed in any case, but shall be returned to the custody of the clerk. Nothing herein contained shall be construed to prevent the proof of the passage and publication of ordinances in the usual way. Each of the foregoing books, except the records of the board of trustees and the board of equalization, shall have a general index, sufficiently comprehensive to enable a person readily to ascertain matters contained therein. The clerk shall also keep a book, marked "Demands and Warrants," in which he shall note every demand against the city or town, and file the same. He shall state therein; under the note of the demands, the final disposition made of the same; and if the same is allowed, and a warrant drawn, he shall also state the number of the warrant, with sufficient dates. This book shall contain an index, in which reference shall be made to each demand. Upon the completion of the assessment-roll of any of the taxes of the city or town, and the levying of the tax thereon, the clerk shall apportion the taxes upon such assessment-roll, and make out and deliver to the marshal a tax list in the usual form, taking his receipt therefor. He may appoint a deputy, for whose acts he and his bondsmen shall be responsible; and he and his deputy shall have power to administer oaths or affirmations, to take affidavits and depositions to be used in any court or proceeding in the state, and to certify the same. He and his deputy shall take all necessary affidavits to demands against the city or town, and certify the same without charge. He shall be the custodian of the seal of the city or town. He shall make a quarterly statement in writing, showing the receipts and expenditures of the city or town for the preceding quarter, and the amount remaining in the treasury. He shall at the end of every fiscal year make a full and detailed statement of the receipts and expenditures of the preceding year, and a full statement of the financial condition of the affairs of the city or town, which shall be published. He shall perform such other services as this act and the ordinances of the board of trustees shall require.

Attorney.

§ 879. It shall be the duty of the attorney to advise the city or town authorities and officers in all legal matters pertaining to the business of said city or town. He shall receive the delinquent list and receipt therefor; he is authorized to bring suit in the name of the city or town, in the proper court, for the collection of any tax; he shall receive for collecting taxes such per cent on the amount collected as may be provided by ordinance, which said per cent shall be collected of the delinquent taxpayers as provided by ordinance. In case a suit shall be brought in the superior court upon a tax upon real estate to sell such real estate for the purpose of paying such tax and costs, he shall be allowed, in addition to the said per cent, twenty-five dollars for each suit brought, to be taxed as costs in such suit, and not to be paid to said attorney unless collected of the defendant in such suit. Said attorney shall receive such other compensation as may be allowed by the board of trustees.

Marshal.

§ 880. The department of police of said city or town shall be under the direction and control of the marshal; and for the suppression of any riot, public tumult, disturbance of the peace, or resistance against the laws or public authorities in the lawful exercise of their functions, he shall have the powers that are now or may hereafter be conferred upon sheriffs by laws of the state, and shall in all respects be entitled to the same protection; and his lawful orders shall be promptly executed by deputies, police officers, and watchmen in said city or town, and every citizen shall also lend his aid, when required, for the arrest of offenders and maintenance of public order. He shall, and is hereby authorized to, execute and return all process issued and directed to him by any legal authority. It shall be his duty to prosecute before the recorder all breaches or violations of or noncompliance with any ordinance which shall come to his knowledge. He shall collect all taxes levied by the board of trustees, except as is herein provided. He shall, at the expiration of any month, pay to the treasurer all taxes and other funds of said city or town collected by him during said month. He shall, upon payment of the money, file with the treasurer an affidavit, stating that the money so paid is all the taxes or funds that he has collected or received during the preceding month. He shall, upon the receipt of any tax list, give his receipt for the same to the clerk, and shall, upon depositing with the clerk the delinquent tax list, take his receipt therefor. He shall receive from the clerk all licenses, and collect the same. He shall have charge of the prison and prisoners, and of any chain-gang which may be established by the board of trustees. He shall for service of any process receive the same fees as constables, but his fees for services in any criminal action or proceeding upon process issued from the recorder's court shall not be a charge against the county. He may appoint, subject to the approval of the board of trustees, one or more deputies, for whose acts he and his bondsmen shall be responsible, whose only compensation shall be fees for the service of process, which

shall be the same as those allowed to the marshal. He may also, with the concurrence of the president of the board of trustees, when the same may be by them deemed necessary for the preservation of public order, appoint additional policemen, who shall discharge the duties assigned them for one day only. He shall perform such other services as this act and the ordinances of the board of trustees shall require, and shall receive such compensation as shall be fixed by ordinance. [Amendment approved March 13, 1903. Stats. 1903, p. 135. In effect immediately.]

Compensation fixed by board.

§ 881. The board of trustees shall, by ordinances not inconsistent with the provisions of this chapter, prescribe the additional duties of all officers, and fix their compensation.

Article V.—Judicial Department.

Recorder's court.

§ 882. A recorder's court is hereby established in such city or town, to be held by the recorder of such city or town. Said recorder's court shall have jurisdiction, concurrently with the justice's courts, of all actions and proceedings, civil and criminal, arising within the corporate limits of such city or town, and which might be tried in such justice's court; and shall have exclusive jurisdiction of all actions for the recovery of any fine, penalty, or forfeiture prescribed for the breach of any ordinance of such city or town, of all actions founded upon any obligation created by any ordinance, and of all prosecutions for any violation of any ordinance. In all civil actions for the recovery of any fine, penalty, or forfeiture prescribed for the breach of any ordinance of such city or town, where the fine, penalty or forfeiture imposed by the ordinance is not more than fifty dollars, the trial must be by the court, in civil actions where the fine, penalty or forfeiture prescribed for the breach of any ordinance of such city or town is over fifty dollars, the defendant is entitled to a jury. Except as in this section otherwise provided, the rules of practice and mode of proceeding in said recorder's court shall be the same as are or may be prescribed by law for justices' courts in like cases; and appeals may be taken to the superior court of the county in which such city or town may be situated, from all judgments of said recorder's court, in like manner and with like effect as in cases of appeals from justices' courts. [Amendment approved March 7, 1905. Stats. 1905, p. 73. In effect in sixty days.]

Powers of recorder as judge.

§ 883. The recorder shall be judge of the recorder's court, and shall have the powers and perform the duties of a magistrate. He may administer and certify oaths and affirmations, and take and certify acknowledgments. He shall be entitled to charge and receive for his services such fees as are or may be allowed by law for justices of the peace for like services, except that for his services in criminal prosecutions for violation of ordinances he shall be entitled to receive only such fees as the board of trustees shall by ordinance prescribe; but his fees for ser-

VICES in any criminal case shall not be a charge against the county. [Amendment became a law under constitutional provision without governor's approval March 12, 1901. Stats. 1901, p. 269. In effect immediately.]

Recorder disqualified as judge in certain cases.

§ 884. In all cases in which the recorder is a party, or in which he is interested, or when he is related to either party by consanguinity or affinity within the third degree, or is otherwise disqualified, or in case of sickness or inability to act, the recorder may call in a justice of the peace, residing in the city or town to act in his place and stead; or if there be no justice of the peace residing in the city or town, or if all those so residing are likewise disqualified, then he may call in any justice of the peace residing in the county in which such city or town may be situated.

Article VI.—Miscellaneous Provisions.

Collection of moneys.

§ 885. Every officer collecting or receiving any moneys belonging to or for the use of such city or town shall settle for the same with the clerk on the first Monday in each month, and immediately pay the same into the treasury, on the order of the clerk, for the benefit of the funds to which such moneys respectively belong.

No officer to be interested in any public contract.

§ 886. No officer of such city or town shall be interested, directly or indirectly, in any contract with such city or town, or with any of the officers thereof in their official capacity, or in doing any work or furnishing any supplies for the use of such city or town, or its officers in their official capacity; and any claim for compensation for work done, or supplies or materials furnished, in which any such officer is interested, shall be void, and if audited and allowed shall not be paid by the treasurer. Any willful violation of the provisions of this section shall be a ground for removal from office, and shall be deemed a misdemeanor, and punished as such.

ACT 2349.

An act to validate the organization and incorporation of municipal corporations of the sixth class.

[Approved February 14, 1903. Stats. 1903, p. 29.]

§ 1. All municipal corporations of the sixth class, the organization and incorporation of which have been authenticated by an order of a board of supervisors in this state, declaring the same incorporated as municipal corporations of the sixth class, and a certified copy of which order has been filed by such board of supervisors in the office of the secretary of state, showing such copy of said order to have been filed in said office, and which corporations thereafter have acted in the form and manner of municipal corporations under the provisions of "An act

to provide for the organization, incorporation, and government of municipal corporations," approved March thirteenth, eighteen hundred and eighty-three, and the amendments thereto, are hereby declared to be and to have been municipal corporations of the sixth class from the date of filing the certified copy of said order of the board of supervisors with the secretary of state; and all the acts of the said municipal corporations heretofore exercised according to the act aforesaid, are hereby validated and declared as legal.

§ 2. This act shall take effect from and after its passage and approval.

ACT 2350.

An act entitled "An act to enable municipal corporations of the sixth class to elect officers."

[Approved March 14, 1885. Stats. 1885, p. 136.]

Cited and construed 149 Cal. 516.

Petition for appointment of commissioners of election.

§ 1. Whenever a corporation of the sixth class shall have failed, from any cause, to elect officers in accordance with its charter, and there are no officers to carry on the city government, or call an election for officers, in any such case citizens of such corporation may present a petition to the governor for the appointment of three commissioners of election. Such petition shall set forth: 1. The name of the corporation, and when, and how organized; 2. When the last election for officers took place, and whether any of such officers are performing their duties, and if not, how long since they ceased to perform their duties; 3. The provision of the charter as to the qualifications of voters; 4. That the persons signing the petition possess the qualifications provided by the charter for voters, and that each of said signers is a householder and freeholder in said corporation. The petition shall be signed by not less than seventy-five persons possessing all the qualifications mentioned in the body of the petition, and shall be verified by at least two of the signers, that, of their own knowledge, the petition is true, and that all the signers possess all the qualifications set forth in the petition. Upon the presentation of the petition to the governor, he may either act upon the petition or require additional evidence of the matters set forth in the petition. Upon being satisfied of the truth of the matters set forth in the petition, the governor is authorized and empowered to appoint three persons as commissioners of election for such corporation. Such commission shall be known and styled "Board of election commissioners for" (here give name of corporation).

Appointment of commissioners.

§ 2. The governor shall cause a commission to be issued to the commissioners, and the issuance of such commission shall be conclusive evidence of the regularity of all the proceedings to and including the appointment of such commissioner. Within ten days after their appointment, the commissioners shall take the oath of office before some judge or clerk,

which oath shall be indorsed upon the commission, and a copy filed in the office of the secretary of state, and shall organize by the election of a president and secretary from their own members. The board shall cause to be kept minutes of all their proceedings, which minutes shall be signed at the close of each meeting by the president and secretary.

Powers of commissioners.

§ 3. The board of election commissioners shall have power: First, by an order entered in their minutes, to call an election for such officers as are declared in the charter of such corporation to be elected only by the voters in said corporation. Such orders shall specify the names of the offices to be filled, and, when any office is to be filled by an election in any ward or subdivision of said corporation, the order shall so state, and the date fixed for the election. Previous to the election, the board shall appoint officers of election, and fix the places of holding the election, as required in the charter of such corporation. The board shall cause notice of such election to be published in one or more newspapers published in said corporation; or if none be published therein, then by posting notices, for at least twenty days before such election. Such election shall be conducted as required by the charter of said corporation for election of officers, except that it shall not be necessary to use printed registers, but should any voter be challenged on the ground that his name does not appear on the great register of the county, it shall be sufficient for him to state, under oath, that he believes his name is upon the great register, and if no other evidence is offered, the board of election shall accept his statement as true.

Election returns.

§ 4. The boards of election shall make return of the election as required in the charter, except that the returns shall be returned and delivered to the board of election commissioners, of all officers voted for at such election, without reference to whether any of such officers were voted for in the whole, or only a ward or subdivision of the corporation, and no officer of election shall issue a certificate of election.

Canvassing returns.

§ 5. Within five days after the election the board of election commissioners shall proceed to canvass said returns and declare what persons were elected. Said board shall thereupon issue certificates of election to the persons so declared to be elected; such certificate shall be signed by all the commissioners, and shall be conclusive evidence of the regularity of all the proceedings taken in said election and by said board, except as against any suit or proceeding that may be commenced to oust from office any of said persons holding a certificate.

Officer qualifying.

§ 6. Within ten days after issuance of the certificates, the officers shall be qualified and enter upon the discharge of their duties, in accordance with the charter. If any person chosen at said election shall fail to take the oath of office and enter upon the discharge of the duties

within the time above specified, then the office to which he shall have been elected shall be deemed and held to be vacant, the same as if he had never been elected. At the first meeting of the legislative department of the corporation after the election, the board of election commissioners shall deliver to said legislative department all books and papers in their possession, relating to their office of election commissioners, and said legislative department shall cause the same to be filed by their clerk, and shall cause the commission issued by the governor to said commissioners, and the minutes of said commissioners, and notice of the election, to be entered in the book of minutes of said legislative department, and such entries, when so made, shall be evidence of all the matters therein stated, and as conclusive evidence as the original.

Effect of elections.

§ 7. Whenever the officers elected at said election, and the officers authorized by the charter to be elected or appointed by the legislative or executive department of said corporation, shall have qualified and entered upon the discharge of their duties, then said corporation shall be deemed and held to be fully organized and in operation, as if said election had been held at the time and in all respects in the manner required by the charter.

Resolution as to organization.

§ 8. Whenever the government of the corporation is in full operation, as set forth in section seven, the legislative department shall cause a resolution to be entered in their minutes declaring the same; and such resolution shall be conclusive evidence of the same, except as against a direct action or proceeding to set aside or annul said government.

§ 9. This act shall take effect from and after its passage.

ACT 2351.

An act to provide for the disincorporation of municipal corporations of the sixth class.

[Approved March 26, 1895. Stats. 1895, p. 115. Amended 1897, p. 17; 1899, p. 13.]

Citations. Cal. 117/862; 118/892.

§ 1. A municipal corporation of the sixth class may disincorporate after proceedings had as required in this act. The council, board of trustees, or other legislative body of such corporation shall, upon receiving a petition therefor, signed by not less than half of the qualified electors thereof, as shown by the vote cast at the last municipal election held therein, submit to the electors of such corporation the question whether such municipal corporation shall disincorporate. Such question shall be submitted at a special election to be held for that purpose, and such legislative body shall give notice thereof by publication in a newspaper printed or published in such corporation, or if there is no newspaper published in said corporation, then in some newspaper published in the county in which said corporation is situated, for a period of thirty

days prior to such election. Said notice shall state that the question of disincorporating said corporation will be submitted to the legal voters of the same at the time appointed for such election, and the electors shall be invited thereby to vote upon such proposition by placing upon their ballots the cross, as provided by law, after the words "For disincorporation," or "Against disincorporation." Such legislative body shall also designate in said notice the place or places at which the polls will be open in said municipal corporation; and shall also appoint and designate in such notice the names of the officers of election. The vote at said election shall be taken, canvassed, and returned in the same manner as in other municipal elections. Such legislative body shall meet on the Monday next succeeding the day of such election, and proceed to canvass the votes cast thereat. If it be found by the canvass of said votes that less than two-thirds of the votes cast were in favor of disincorporation, such legislative body shall declare the petition for disincorporation denied, in which case no new election shall be held on the question of disincorporating the corporation involved in said petition and vote until after the expiration of two years from date of the election so held. In case it shall appear from said canvass that two-thirds of all the votes cast were in favor of disincorporation, said legislative body shall, under their hands, make and file in their office, and cause to be entered upon their record of proceedings, an order that the petition for such disincorporation be granted, and declaring that such corporation be disincorporated; said order to take effect at the time hereinafter provided.

Said legislative body shall, in case said corporation is so disincorporated, forthwith cause their clerk, or other officer performing the duties of clerk, by an order entered in their minutes, to make and transmit to the secretary of state and board of supervisors of the county in which said corporation is situated, a certified copy and abstract of the notice of election hereinbefore provided for, the whole number of electors voting for said disincorporation, and the number of electors voting against said disincorporation. Thirty days from and after the holding of the election, in case two-thirds of the said votes were cast in favor of said disincorporation, said municipal corporation shall be forever disincorporated. Said legislative body shall forthwith, after ascertaining by said canvass that said disincorporation has been carried, determine the amount of the indebtedness of said municipal corporation, the amount of money in the treasury thereof, and the amount of any tax levy made by said corporation unpaid or not due, and all other indebtedness due or coming due to said corporation, and within thirty days from the date of said election shall transmit a certified statement of said amount to the board of supervisors of the county in which said municipal corporation is situated; and the treasurer of said corporation shall before the expiration of said thirty days, turn over to the treasurer of said county all moneys of said municipal corporation in his possession, and said county treasurer shall place said moneys in a special fund, to be drawn upon as hereinafter provided for. Upon the disincorporation of said municipal corporation, every public officer of said corporation shall immediately turn over to the board of supervisors of the county in which

said corporation is situated, all public property of every nature and description in their possession; provided, however, that all court records of the recorder's court of the said municipal corporation shall be retained by said recorder as justice of the peace of the township, and as such justice of the peace he shall have authority to execute and complete all unfinished business standing on the same. Nothing contained in this act shall be held to relieve said municipal corporation, or the territory included within it, from any liability for any debt contracted by such municipal corporation prior to its disincorporation. All warrants for said indebtedness shall be drawn by the board of supervisors of the county in which said municipal corporation is situated, on the fund hereinabove provided for in the county treasury. If, at the time of said disincorporation, a tax shall have been levied by said municipal corporation, and remains uncollected, it shall be the duty of the tax collector of the county in which said municipal corporation was situated to collect said tax when due, and pay the same into the county treasury. All property upon which any municipal tax has been levied and the same has become delinquent, either before or after the date of such disincorporation, and all property sold for any tax levied by said municipal corporation, may be redeemed by any party interested, by the payment to the county treasurer, upon the estimates of the auditor, of the money that would have been necessary to redeem such property, had said city not disincorporated. All moneys paid into the county treasury under the provisions of this act shall be placed to the credit of the special fund hereinbefore provided for. If, at any time after the disincorporation of such municipal corporation, it should be found that there is not sufficient money in the treasury to the credit of the fund hereinabove provided for, with which to pay any indebtedness of said municipal corporation, the board of supervisors of said county shall have the power, and it shall be their duty to levy, and there shall be collected from the territory formerly included within said municipal corporation, a tax or taxes sufficient in amount to pay the said indebtedness, of said municipal corporation, as the same shall become due; such tax or taxes, assessments, and collections shall be made in the same manner and at the same time that other taxes of said county are levied and collected, and shall be an additional tax upon the property included within said territory for the payment of said debts. If, after payment of the debts of said municipal corporation, there shall remain any surplus in the hands of said county treasurer to the credit of the fund hereinbefore mentioned, the money so remaining shall be transferred to the school fund of the districts or district covered by said municipal corporation. [Amendment approved February 17, 1899. Stats. 1899, p. 13.]

§ 2. The board of supervisors of the county in which any such municipal corporation has been disincorporated, shall have the power, and it shall be their duty, if the board of trustees or other legislative body of such corporation shall fail or refuse to return to said board of supervisors the statement of said amounts as hereinbefore in this act provided, to ascertain the indebtedness of said municipal corporation at the time

of its disincorporation, and the amount of money in its treasury and the amount due to it at the said time. Said board of supervisors shall make provision for the collection of the amounts due to said municipal corporation, and for the closing up of its affairs, and any act or acts necessary for such purpose and not otherwise herein provided for, shall, upon the order of said board of supervisors directing the same, be as fully done and performed by the officer or officers performing similar duties for the said county, and with as full effect as if the same had been performed by the proper officer of said municipal corporation, before disincorporation, and said county shall succeed to and possess all the rights of said municipal corporation in and to said indebtedness, and shall have power to sue for or otherwise collect any such debts, in the name of the county. All costs and expenses of ascertaining the facts hereinbefore mentioned, and all other costs and expenses incurred by the board of supervisors in the execution of the powers and duties of said board of supervisors, provided for in this act, shall be paid out of the special fund in said county treasury hereinbefore in this act provided for. All provisions of this act relating to the settlement of a municipal corporation after disincorporation shall be applicable to the winding up of the affairs of any disincorporated municipality whether disincorporated before or after the passage of this act. [Amendment approved February 17, 1899. Stats. 1899, p. 13.]

§3. This act shall take effect and be in force from and after its passage.

ACT 2352.

To provide for the reorganization of municipal corporations and for determining the population thereof. [Stats. 1899, p. 75.]

This act related to cities of the sixth class.

ACT 2353.

To provide for the ownership of property and the winding up of the affairs of municipal corporations disincorporated under the provisions of an act of the legislature of the state of California, entitled "An act to provide for the disincorporation of municipal corporations of the sixth class," approved March 26, 1895, when two-thirds or more in value of assessable property within the former limits thereof shall be included within the boundaries of any subsequently incorporated city or town. [Approved February 17, 1899. Stats. 1899, p. 17.]

ACT 2354.

An act concerning municipal corporations.

[Approved March 9, 1885. Stats. 1885, p. 31.]

Validating acts of municipal corporations.

§1. All municipal corporations, whose incorporation has been or may hereafter be authenticated by an order of any board of supervisors in this state, declaring the same incorporated as a municipal corporation,

and a certified copy of which order has been or may hereafter be filed by such board of supervisors in the office of the secretary of state, and which have heretofore been or may hereafter be organized under a certificate from the secretary of state, showing such order to have been filed in his office, and which thereafter have acted, or hereafter may act, in the form and manner of a municipal corporation, under the provisions of an act entitled "An act to provide for the organization, incorporation, and government of municipal corporations," approved March thirteenth, eighteen hundred and eighty-three, are hereby declared to be and to have been municipal corporations from the date of filing the certified copy of said order of the board of supervisors with the secretary of state; and all the acts of said municipal corporations heretofore exercised, or which may be hereafter exercised, according to the act aforesaid, are hereby validated and declared to be legal.

§ 2. This act shall take effect immediately.

See ante, Act 2332; post, Act 2355.

ACT 2355.

An act to validate the organization and incorporation of municipal corporations.

[Approved March 17, 1897. Stats. 1897, p. 168.]

§ 1. All municipal corporations, the organization and incorporation of which have been authenticated by an order of a board of supervisors in this state, declaring the same incorporated as municipal corporations of the classes to which such corporations may respectively belong, and a certified copy of which order has been filed by such board of supervisors in the office of the secretary of state, showing such copy of said order to have been filed in said office, and which corporations thereafter have acted in the form and manner of municipal corporations under the provisions of "An act to provide for the organization, incorporation, and government of municipal corporations," approved March thirteenth, eighteen hundred and eighty-three, and the amendments thereto, are hereby declared to be and to have been municipal corporations from the date of filing the certified copy of said order of the board of supervisors with the secretary of state; and all the acts of the said municipal corporations heretofore exercised according to the act aforesaid, are hereby validated and declared as legal.

§ 2. This act shall take effect from and after its passage and approval.

See ante, Acts 2332, 2354.

ACT 2355a.

An act to validate the organization and incorporation of municipal corporations.

[Approved April 12, 1909. Stats. 1909, p. 826.]

§ 1. All municipal corporations, the organization and incorporation of which have been authenticated by an order of a board of supervisors

in this state, declaring the same incorporated as municipal corporations of the classes to which such corporations may respectively belong, and a certified copy of which order has been filed by such board of supervisors in the office of the secretary of state, and which corporations thereafter have acted in the form and manner of municipal corporations under the provisions of "An act to provide for the organization, incorporation, and government of municipal corporations," approved March thirteenth, eighteen hundred and eighty-three, and the amendments thereto, are hereby declared to be and to have been municipal corporations from the date of filing the certified copy of said order of the board of supervisors with the secretary of state; and all the acts of the said municipal corporations heretofore performed according to the act aforesaid, are hereby validated, and declared to be legal; provided, however, that all municipal corporations shall be excepted from the operation of this act where the right to act as such is being contested or inquired into in any legal proceeding brought within six months after the certified copy of the order of the board of supervisors was filed in the office of the secretary of state.

ACT 2356.

An act to validate proceedings for the reorganization of municipal corporations taken since the passage of the act entitled "An act to provide for the organization, incorporation, and government of municipal corporations," approved March 13, 1883. [Stats. 1883, p. 92.]

[Approved March 16, 1889. Stats. 1889, p. 203.]

§ 1. All cities and counties, cities, or towns reorganized, or claiming to have been reorganized, since the passage of the act, the title of which is recited in the title hereof, or which have attempted since said date to reorganize or incorporate under the provisions of said act, and have acted as municipal corporations since such reorganization, are hereby declared to be, and to have been from the date of such reorganization, or attempted reorganization, duly and legally incorporated and reorganized cities, and all proceedings for the reorganization of such municipal corporations are hereby validated and declared legal.

ACT 2357.

To validate proceedings for the reorganization of municipal corporations taken since the passage of the act entitled "An act to provide for the organization, incorporation, and government of municipal corporations," approved March 13, 1883. [Stats. 1887, p. 150.]

ACT 2358.

To validate proceedings for the reorganization of municipal corporations taken since the passage of the act entitled "An act to provide for the organization, incorporation, and government of municipal corporations," approved March 13, 1883, and also since the passage of the act entitled "An act to provide for the classification of

municipal corporations," approved March 2, 1883. [Stats. 1891, p. 92.]

ACT 2358a.

An act to validate proceedings for the reorganization of municipal corporations taken since the passage of the act entitled "An act to provide for the organization, incorporation, and government of municipal corporations," approved March 13, 1883; and also, since the passage of the act entitled "An act to provide for the classification of municipal corporations," approved March 3, 1883.

[Approved March 18, 1909. Stats. 1909, p. 403.]

§1. All cities or towns, reorganized, or claiming to have been reorganized, since the passage of the acts the titles of which are recited in the title hereof, or which have attempted since said dates to reorganize or incorporate under the provisions of said acts, or either of them, and have acted as municipal corporations since such reorganization, are hereby declared to be and to have been from the date of such reorganization, or attempted reorganization, duly and legally incorporated and reorganized cities, and all proceedings for the reorganization of such municipal corporations are hereby validated and declared legal; provided, that this act shall not affect any municipal corporation where an action is pending to test the validity of such municipal corporation.

§2. This act shall take effect from and after its passage.

ACT 2359.

An act to enable cities incorporated and operating under a charter framed under section 8, article 11, of the constitution, to abandon and annul such charter, and organize under general laws.

[Approved March 27, 1897. Stats. 1897, p. 200.]

§1. The common council, or other legislative body of any city in this state, operating under a charter framed under section 8, article 11, of the constitution, shall have power, and it shall be their duty, whenever a petition is presented to them, signed by one-half of the qualified electors of such city, by ordinance, to submit to the qualified electors of such city at any general election, the question whether such city shall abandon such charter and reorganize under the general laws of the state providing for the organization, incorporation, and government of municipal corporations. Such election shall be called and held in accordance with the provisions of such charter for calling and holding elections, and if two-thirds of such qualified electors voting at such election shall vote to abandon such charter and reorganize under the general laws of the state providing for the organization, incorporation, and government of municipal corporations, such city shall, from and after the thirtieth day after such election, cease to be organized under such charter, and such charter shall be superseded by said general laws, and organized thereunder. In case such proposition shall fail to receive the

vote of two-thirds of such electors, then the proposition for the abandonment of such charter and reorganization under the general laws shall not be again submitted for two years.

§ 2. All officers of such city shall continue in office, and their powers under said charter shall not cease until officers shall have been elected and qualified under said general laws.

§ 3. This act shall take effect immediately.

ACT 2360.

To authorize municipal corporations of the first class to obtain public waterworks. [Stats. 1885, p. 42.]

Repealed 1889, p. 399.

Citations. Cal. 74/228.

ACT 2361.

To authorize the incurring of indebtedness by municipal corporations for the construction of waterworks, sewers, etc. [Stats. 1889, p. 399.]

Amended 1891, pp. 84, 94, 132; 1898, p. 61.

See this act, post, Act 2900.

Citations. Cal. 91/550; 95/112; 99/147; 104/519, 521, 523; 107/400, 465, 466, 469, 470, 473; 119/625, 626; 121/103; 122/78; 125/623, 624; 126/280, 281; 130/ 279; 135/451, 452, 453, 454; 138/243; 142/699, 700, 701; 144/393; 151/180; 153/291, 294.

ACT 2362.

An act to authorize cities to acquire and operate a joint system or systems of water supply.

[Approved March 24, 1903. Stats. 1903, p. 405.]

§ 1. Any two or more cities incorporated under the constitution and laws of this state are hereby empowered to jointly acquire and develop a source or sources of water supply for municipal and domestic purposes, and to construct the works necessary for their joint and several purposes and needs.

§ 2. Whenever the legislative body of a city deems it advisable to investigate the desirability of joint action with any other city, or cities, for acquiring and maintaining a water supply, such legislative body shall pass a resolution to that effect, and thereupon the mayor of said city shall, with the consent and advice of said legislative body, appoint three commissioners to confer with like commissioners from any other city. Said commissioners from the respective cities shall meet and consider the question of the desirability of their respective cities taking joint action to acquire and develop water supply for their respective cities, and the plans, terms and conditions they deem feasible, just and equitable, and if they agree upon such plans, terms and conditions they shall report the same to the legislative bodies of their respective cities.

§ 3. If the legislative bodies of two or more cities approve the plans, terms and conditions of the joint action reported by the commissioners

they shall, by resolution, declare such approval, and shall submit the same to the qualified voters of their respective cities for their approval or rejection at the next city election, or at a special election called for that purpose. If the terms, conditions and plans are approved by a majority of the voters voting thereon at such election the said cities may enter upon the work of developing or acquiring water supply for the said cities in accordance with such plans, terms and conditions. And any city may, in the manner required by law, issue bonds for the purpose of prosecuting and completing the work of acquiring a water supply jointly with other cities. All proceedings relating to the issue of such bonds shall be taken as now required by law for the issue of bonds to acquire a water supply.

§4. Joint ownership and costs shall be restricted to those portions of the sources and works which shall be common to all the municipalities served, and each municipality shall exclusively own, construct and operate those sources and works which are for its exclusive use.

§5. The apportionment of all costs of acquisition, construction, operation and maintenance of the joint properties shall be made upon the basis of the amount of water proposed to be apportioned to the several municipalities, unless a different apportionment of costs shall be agreed upon.

§6. The total costs of works which shall exclusively serve any municipality shall be borne by such municipality exclusively.

§7. The plans, terms, conditions, or other agreement for acquiring said water supply, may be modified from time to time by agreement between the respective cities, which agreement shall be declared by the action of their respective legislative bodies.

§8. The term "city" and the term "municipality," as used in this act shall include a consolidated city and county, and the same rights and privileges by this act given to an incorporated city shall pertain to a consolidated city and county.

§9. Before any resolution or ordinance relating to the joint acquisition of a water supply becomes binding upon any city or municipality it shall be approved by the mayor of such city, or passed over his veto, in the manner provided by law or the charter of such city for the passage of ordinances.

§10. This act shall be in force from and after its passage.

ACT 2363.

An act to provide for the sale of an excess of water when owned by a municipality.

[Approved March 27, 1897. Stats. 1897, p. 182.]

Citations. Cal. 152/598.

§1. Whenever the water supply owned by any city, incorporated town, county, or city and county, is in excess of the amount required

to supply the water required by the inhabitants thereof, it may be declared by ordinance that such excess exists, and such excess of water may be sold outside of the limits of the corporation; but in no case shall a contract be made for a supply of any excess of water sold by a city, incorporated town, county, or city and county, outside the corporate limits for a period longer than one year; and in no case shall such a contract be made, unless the legislative authority of a city, incorporated town, county, or city and county, declare by ordinance that there exists an excess of water not required to supply the inhabitants of the city, incorporated town, county, or city and county, within the term of the contract, but water not required to supply the inhabitants of a city, incorporated town, county, or city and county, may be sold by the authorities thereof outside the corporate limits from month to month during the existence of such excess, and shall be sold only at the rates fixed for consumers inside the corporate limits.

§ 2. This act shall take effect immediately.

ACT 2364.

An act conferring power upon the common council, board of supervisors, or other governing body of cities, or cities and counties, of over one hundred thousand inhabitants, to acquire or condemn land for a suitable site, and erect thereon a suitable building or buildings for municipal purposes.

[Approved March 27, 1895. Stats. 1895, p. 242. Amended 1897, p. 50.]

§ 1. Power and authority is hereby conferred upon the common council, board of supervisors, or other governing body of every city, or city and county, in this state having a population of over one hundred thousand inhabitants, to provide for the erection and construction in such city, or city and county, and at the expense of the same, such additional or other municipal building or buildings as the common council, board of supervisors, or other governing body of such city, or city and county, may determine upon for the accommodation of the criminal department of the superior court, police courts, police stations, prisons, morgues, or coroner's offices of such city, or city and county, and for such other municipal uses as may be deemed necessary.

§ 2. In the event that the common council, board of supervisors, or other governing body of such city, or city and county, shall deem it expedient, and in their judgment that the public good requires the construction of such building or buildings, for the construction of which power is conferred upon them by section 1 of this act, in the manner and mode prescribed by this act, they are hereby authorized and empowered to express such judgment by resolution or order, in such manner as they may deem proper. And for the purpose of raising the money necessary to complete said building or buildings, the said common council, board of supervisors, or other governing body of such city, or city and county, is hereby authorized and empowered to levy and collect, in the same manner and at the same time as other taxes are levied and

collected in such city, or city and county, for municipal purposes, an ad valorem property tax on real and personal property, which shall not in the aggregate exceed the sum of three hundred thousand dollars, which sum shall cover all the expense of the said building or buildings.

§ 3. As a site for the erection and construction of said building or buildings, power is hereby conferred upon the common council, board of supervisors, or other governing body of such city, or city and county, to acquire by purchase, or to condemn and acquire under the laws of eminent domain, such land as may be necessary therefor.

§ 4. The money arising from the tax hereby authorized to be levied and collected shall be kept by the city, city and county treasury of such city, or city and county in a fund to be known as the "Public Building Fund," and out of which said fund all claims for work, labor, and materials used in the construction of said building, and all other expenses authorized to be incurred under the provisions of this act, shall be paid. All claims against the said fund shall be allowed by the common council, board of supervisors, or other governing body of such city, or city and county, by resolution entered upon the minutes in the same manner and form as other expenditures are authorized, before the auditor shall be authorized to audit the same; and in no case shall any portion of said fund be used or expended for any other purpose than those herein indicated, nor shall any part of the cost of the construction of said building be paid out of any other or different fund; nor shall any lien for work, labor, or material at any time attach to the said building or buildings, nor the land upon which the same is located in any manner whatever.

§ 5. When work is to be done upon said building or buildings, or materials to be furnished, it shall be the duty of the common council, board of supervisors, or other governing body of such city, or city and county, to advertise for at least ten days in a daily newspaper published and circulated in such city, or city and county, for sealed proposals for doing both said work and furnishing said material. The said work and material shall be of the best quality. The advertisement shall contain a general description of the work to be done and the materials to be furnished, the time within which the same is to be done or furnished, and may refer to plans and specifications for such other details as may be necessary to give a correct understanding regarding the work or materials. The advertisement shall also state the day and an hour of said day within which bids will be received. At the hour and day stated in the advertisement, the said board or body shall proceed to open the bids in the presence of the bidders, and an abstract of each shall be recorded in the minutes by the clerk. A day and hour shall then be fixed for considering the bids and awarding the contract. An abstract of said bids, showing the name of each bidder, the price at which work, labor, and materials are offered to be done or furnished by each, and such other things as may be necessary to show or explain the offer, shall be made by the clerk and published for five days in a daily newspaper of

general circulation published in such city, or city and county. At the expiration of five days after the first publication of the abstract, on the day and at the hour fixed by said board or body, said board or body shall proceed to consider the several bids and award the contract for doing the work and supplying the material for which proposals are invited, and for none other, to the lowest bidder who shall furnish sufficient sureties to guarantee the performance of the contract; provided, the advertisement hereinbefore provided for, shall invite proposals and bids, in one total sum or amount, for the performance of all the work and the furnishing of all the materials called for in the said advertisement for the erection of the entire building or buildings. Said board or body shall have the right to reject any or all bids, when in their judgment the public interests may be thereby promoted. Such contract shall be executed on behalf of such city, or city and county, by the mayor, or president of the common council, board of supervisors, or other governing body of such city, or city and county. No change in the plans or specifications shall be made after proposals for doing work and furnishing materials have been called for, nor shall any contractor be allowed a claim for work done or materials furnished in excess of his contract, except on the approval of said common council, board of supervisors, or other governing body of cities, or cities and counties; provided, that the aggregate cost of any change, or changes, shall not exceed the sum of three thousand dollars. All contracts shall be in writing, and shall be carefully drawn by the city attorney, city and county attorney, or other law officer of such city, or city and county, and shall contain detailed specifications of the work to be done, the manner in which the same shall be executed, the quality of the material, and the time within which the same shall be completed; and such penalty for the nonperformance of such contract as said board or body may deem just and reasonable. All contracts shall be signed in triplicate—one copy of which, with the plans and specifications of the work to be done, shall be filed with the clerk or secretary of said board or body, and shall at all times, in office hours, be open to the inspection of the public; one, with the plans and specifications, shall be kept in the office of said board or body, and the other copy, with plans and specifications, shall be delivered to the contractor. [Amendment approved March 2, 1897. Stats. 1897, p. 50. In effect immediately.]

§ 6. The common council, board of supervisors, or other governing body of such city, or city and county, may make payments on such contract from time to time, as work progresses or materials are furnished; but until the contract is completed, at no time shall the payments exceed seventy-five per centum of the value of the labor or materials furnished.

§ 7. The plans and specifications herein referred to shall be secured by said board or body after the publication for ten days in a daily newspaper of general circulation in such city, or city and county, of a resolution inviting the submission of competitive plans and specifications for said building or buildings. Said resolution shall contain a general statement of the purposes for which said building or buildings

are to be used, the cost thereof, and the character of the design required. Said plans and specifications may be submitted to such board or body under such requirements and conditions, and at such time as said board or body may prescribe.

§8. This act shall take effect and be in force from and after its passage.

ACT 2365.

An act authorizing municipal corporations to lease, purchase, own, and operate gravel-beds and quarries, and to transport gravel and rock therefrom to such municipal corporations, for the purpose of making, improving, and repairing roads.

[Approved March 27, 1897. Stats. 1897, p. 217.]

Municipal corporations may acquire gravel beds and quarries.

§1. Any incorporated city or town in this state may acquire, lease, purchase, and operate any gravel-bed or quarry within the county where such city or town is situated, and may equip and operate a plant at such gravel-bed or quarry, or within such town or city, for the purpose of breaking, crushing, or otherwise preparing gravel or rock to be used in making, paving, improving, or repairing its streets. Any such city or town may acquire, lease, or purchase and maintain all necessary roads, rights of way and tramways over which to transport gravel or rock from such gravel-bed or quarry to such city or town, and all necessary appliances for that purpose.

Two-thirds vote necessary.

§2. No money shall be expended or expense incurred for any of the purposes set forth in section 1, unless the same is authorized at a regular meeting of the legislative body of such city or town, and by a vote of two-thirds of the members thereof.

§3. This act shall not extend or enlarge any limitation upon municipal taxation or the expenditure of municipal funds, now existing by reason of state laws or city charters in any of the cities or towns of this state.

ACT 2366.

An act to promote the protection of cities, towns, and municipal corporations from overflow by water and the drainage of the same, and for such purposes authorizing the incurring of indebtedness and the issuance of bonds therefor by the same, and providing for the disposition of the proceeds of such bonds, and for the supervision of the protective and other works.

[Approved March 26, 1895. Stats. 1895, p. 95.]

§1. Any city, town, or municipal corporation incorporated under the laws of this state may, by procedure hereinafter prescribed, incur indebtedness and liability, although in excess of the income and revenue by

it provided for the current fiscal year, but not so that the aggregate funded indebtedness thereof shall exceed six per cent of the assessed value of all the real and personal property in the municipality, for the purpose of protecting such city, town, or municipal corporation from overflow by water, and for the purpose of draining such city, town, or municipal corporation, and for the purpose of securing an outlet for such overflow water and drainage, or for any part of said purposes, whether by means of canals, ditches, levees, dikes, embankments, dams, and machinery and other like appropriate or ancillary means or works or any of the same, whether situated within or without the territorial limits of such city, town, or municipal corporation.

§ 2. The procedure mentioned in section 1 aforesaid shall be as follows, to wit: The city council or legislative body of such city, town, or municipal corporation shall, first, have made by some competent person general plans and estimates of the cost of such canals, ditches, levees, dikes, embankments, dams, machinery, and other means or works as may be contemplated, which general plans and estimates shall, after adoption, be filed in the office of the clerk of such municipality, and which general plans shall be substantially adhered to thereafter in proceedings under this act. Said city council or legislative body shall, secondly, after the filing of such general plans and estimates, and by resolution or ordinance passed at a regular meeting by a vote of two-thirds of all its members and approved by the executive of the municipality, determine, if so advised, that the public good demands the construction, acquisition, and completion, or either, of canals, ditches, levees, dikes, embankments, dams, machinery, and other like appropriate or ancillary means, or works, or any of the same, for any or all of the purposes mentioned in section 1 aforesaid; and shall further, by the same resolution or ordinance, determine, if so advised, that the cost of the same will be too great to be paid out of the ordinary income or revenue of the municipality; and such resolution or ordinance, shall, after its passage and approval, be published as hereinafter prescribed. Said city council or legislative body shall, within one month after the publication aforesaid, and by resolution or ordinance passed at a regular meeting by a vote of two-thirds of all its members, and approved by the executive of the municipality, call a special election, and submit to the qualified voters of such city, town, or municipal corporation the proposition to incur a debt for any or all of the purposes mentioned in section 1 aforesaid, and which have been as aforesaid determined to be demanded for the public good. The resolution or ordinance calling such special election shall specify the purpose for which the indebtedness is proposed to be incurred, the estimated cost of the things proposed, that bonds of the municipality will issue in the amount of such estimated cost, the number and character of such bonds, the rate of interest to be paid, and the amount of the tax levy for each year during the outstanding of such bonds to be made for their payment. Such last-named resolution or ordinance shall be published as hereinafter prescribed. Such city council or legislative body shall cause to be published, after the publication last named and prior to the day of holding such special election,

a notice of the same, which notice shall set forth substantially all the matters contained in the aforesaid resolution or ordinance calling such special election.

§ 3. Every publication hereinbefore mentioned or required shall be in some newspaper published in such city, town, or municipal corporation; if in a daily paper in at least ten issues thereof, and if in a weekly paper at least two issues thereof; and no publication shall be deemed to have begun until any one required preceding the same shall have been completed.

§ 4. Such special election shall be held in the manner provided by law for holding elections in such city, town, or municipal corporation.

§ 5. It shall require the votes of two-thirds of all the voters voting at such special election to authorize the incurring of any indebtedness or the issuance of any bonds under this act. If two-thirds of all the votes cast at such special election be in favor of the proposition submitted, the city council or legislative body may, by ordinance reciting the result of said election, provide for the issuance of the proposed bonds and any matter incidental thereto.

§ 6. All municipal bonds issued under this act shall be of the kind known as serials, and of such denominations as the city council or legislative body may determine; provided, that no bond shall be for less than one hundred dollars nor for more than one thousand dollars, and that not less than one-fortieth part of the whole indebtedness evidenced by the whole of the issue of such bonds shall be, by the terms of such bonds, made payable each and every year. Each bond shall be made payable either in gold coin or other lawful money of the United States as may be expressed in such bond, on a day and at a place designated therein, with interest at the rate specified therein, which rate shall not exceed seven per cent per annum, to be fixed by such city council or legislative body. Said place of payment shall be either at the office of the treasurer of the municipality, or at some designated bank in San Francisco, Chicago, or New York. Said bonds shall be executed on the part of such municipality by the mayor or other executive thereof, and by the treasurer thereof, and countersigned by the clerk of the municipality. The interest coupons shall be numbered consecutively and signed by the treasurer.

§ 7. Any of such bonds may be issued by the city council or legislative body of such city, town, or municipal corporation, and by the same sold, at not less than their face value; and the proceeds of such sale shall be deposited in the municipal treasury to the credit of a designated fund and be applied exclusively to the purposes and objects for which, as aforesaid, the electors have voted to incur indebtedness or liability, until such purposes and objects shall have been accomplished, after which, the surplus, if any, may be transferred to the general fund of the municipality.

§ 8. Such city council or legislative body shall, at the time of fixing the general tax levy, and in the manner for such general tax levy pro-

vided, levy and collect annually, each year, for the term of forty years, a tax sufficient to pay the annual interest on such bonds and also one-fortieth part of the aggregate amount of such indebtedness so incurred. The taxes herein required to be levied and collected shall be in addition to all other taxes levied for municipal purposes, and shall be collected at the same time and in the same manner as other municipal taxes are collected.

§ 9. The city council or legislative body of every city, town, or municipal corporation wherein or for which any public works or improvements are being had or constructed for the purposes hereinbefore specified, and for which indebtedness has been incurred under the provisions of this act, shall have power to make all needful rules and regulations for acquisition, construction, and completion of such works and improvements; to appoint all needful agents, superintendents, and engineers to supervise and construct the same, and shall have power in all lawful ways to protect and preserve the rights and interests of the municipality in respect thereof.

§ 10. All contracts as to said works and improvements shall be let, in such parcels as the city council or legislative body may determine, to the lowest responsible bidder, after notice given for at least ten days by publication in one or more newspapers published in the municipality, inviting sealed proposals. Security or bonds may be required in order to guarantee good faith in bidding and in the performance of contracts, or either, in such amount as such council or legislative body may determine, and such council or legislative body may reject any or all bids.

§ 11. The city council or legislative body of the municipality may, by resolution, if it deem the same necessary, require the treasurer of the municipality to give additional bonds for the safe custody and care of public funds derived under this act.

§ 12. The provisions of this act are intended to be paramount and controlling as to all matters provided for therein and as to all questions arising in or out of procedure thereunder.

§ 13. This act shall take effect from and after the time of its passage.

ACT 2367.

To authorize the governing bodies of cities and towns other than cities of the first class, to refund indebtedness. [Stats. 1883, p. 370.]

Amended 1893, p. 57; 1895, p. 203. Repealed 1897, p. 75.

Citations. Cal. 104/693, 696; 109/879, 880; 112/328; 119/629; 121/21, 211; 123/819; 188/885, 886.

Unconstitutional in part: *Los Angeles v. Teed*, 112 Cal. 819.

ACT 2368.

Authorizing the common council, board of trustees, or other governing body of any incorporated city or town other than cities of the first

class to refund its indebtedness, to issue bonds therefor and to provide for the payment of the same. [Stats. 1897, p. 75.]

Amended 1901, p. 274.

Unconstitutional in part: *Los Angeles v. Hanea*, 122 Cal. 77.

ACT 2369.

Authorizing the incurring of indebtedness by cities and towns to pay the cost of any permanent public improvement. [Stats. 1887, p. 120.]

Amended 1889, p. 14. Repealed 1889, p. 402.

ACT 2370.

Authorizing cities of not less than twenty-six nor more than thirty thousand inhabitants to vote upon the question of paying indebtedness incurred in the years 1889 and 1890. [Stats. 1891, p. 8.]

Unconstitutional: *Darcy v. Mayor*, 104 Cal. 642; *Ex parte Giambolini*, 117 Cal. 578; *Pasadena v. Stimson*, 91 Cal. 288.

ACT 2371.

An act authorizing the incurring of indebtedness by cities, towns, and municipal corporations for municipal improvements, and regulating the acquisition, construction, or completion thereof.

[Became a law under constitutional provision without governor's approval, February 25, 1901. Stats. 1901, p. 27.]

Amended 1907, pp. 570, 609, 684; 1909, p. 720.

Citations. Cal. 142/699, 700; 144/391; 148/586; 151/178, 179, 180, 181, 476, 477, 574, 575, 576; 153/290, 291, 292, 298, 295, 296. App. 6/843, 844, 845.

"This act was not repealed by 'Local Improvement Act' 1901, p. 84 (*Town of Mill Valley v. House*, 142 Cal. 698). The provisions of the San Francisco charter for a bonded indebtedness for municipal improvements, including schoolhouses, prevail on that subject over the provisions of this act, so far as there may be any conflict between them (*Law v. San Francisco*, 144 Cal. 884). See, also, 1889, p. 361, and *Oakland v. Thompson*, 84 Cal. Dec. 91."—Code Commissioners' Note.

§ 1. Any city, town or municipal corporation incorporated under the laws of this state, may as hereinafter provided incur indebtedness to pay the cost of any municipal improvement requiring an expenditure greater than the amount allowed for such improvement by the annual tax levy.

§ 2. Whenever the legislative branch of any city, town or municipal corporation shall, by resolution passed by vote of two-thirds of all its members and approved by the executive of said municipality, determine that the public interest or necessity demands the acquisition, construction or completion of any municipal improvement, including bridges, waterworks, water rights, sewers, light or power works or plants, buildings for municipal uses, wharves, schoolhouses, fire apparatus, and street work, or other works, property or structures necessary or convenient to carry out the objects, purposes and powers of the municipality, the

cost of which will be too great to be paid out of the ordinary annual income and revenue of the municipality, it may at any subsequent meeting of such board, by a vote of two-thirds of all its members, and also approved by the said executive, call a special election and submit to the qualified voters of said city, town or municipal corporation the proposition of incurring a debt for the purpose set forth in said resolution, and no question other than the incurring of the indebtedness for said purpose shall be submitted; provided, that propositions of incurring indebtedness for more than one object or purpose may be submitted at the same election. The ordinance calling such special election shall recite the objects and purposes for which the indebtedness is proposed to be incurred, the estimated cost of the proposed public improvements, the amount of the principal of the indebtedness to be incurred therefor, and the rate of interest to be paid on said indebtedness, and shall fix the date on which such special election will be held, the manner of holding such election and the voting for or against incurring such indebtedness, and in all particulars not recited in such ordinance, such election shall be held as provided by law for holding municipal elections in such municipality; provided, however, that if the rate of interest to be paid on such indebtedness shall not exceed four and one-half per centum per annum, payable semi-annually, the rate of interest need not be recited in such ordinance, but in its discretion, the said legislative branch may recite in such ordinance a maximum rate of interest to be paid on such indebtedness, not exceeding six per centum per annum payable semi-annually, which rate when so recited, shall not be exceeded in the issuance of bonds for such indebtedness. [Amendment approved March 19, 1907. Stats. 1907, p. 609. In effect immediately.]

§ 3. Such ordinance shall be published once a day for at least seven days in some newspaper published at least six days a week in such municipality, or once a week for two weeks in some newspaper published less than six days a week in such municipality, and one insertion each week for two succeeding weeks shall be a sufficient publication in such newspaper published less than six days per week. In municipalities where no such newspaper is published, such ordinance shall be posted in three public places therein for two succeeding weeks. No other notice of such election need be given. It shall require the votes of two-thirds of all the voters voting at such special election to authorize the issuance of the bonds herein provided; provided, however, should the proposition so submitted at such election fail to receive the requisite number of votes of the qualified voters, voting at such election to incur the indebtedness for the purpose specified, the legislative branch of such municipality shall have no power or authority within one year after such election to call or order another election for incurring any indebtedness for improvements, substantially the same as voted upon at such prior election, unless a petition, signed by a majority of the taxpayers on the latest assessment-roll of such municipality, be filed with such municipality, requesting that such proposition or a proposition substantially the same be submitted at an election to be called for the

submission of such proposition and to be held in accordance with the provisions of this act.

§ 4. No city, town or municipal corporation shall incur an indebtedness for public improvements which shall in the aggregate exceed fifteen per cent of the assessed value of all the real and personal property of such city, town or municipal corporation.

§ 5. All municipal bonds issued under the provisions of this act shall be payable substantially in the following manner: A part to be determined by the legislative body of the municipality, which shall be not less than one-fortieth part of the whole amount of such indebtedness, shall be paid each and every year on a day and date, and at a place within the United States, to be fixed by the legislative branch of the municipality issuing the bonds and designated in such bonds, together with the interest on all sums unpaid at such date; provided, however, that, in case of bonds issued for the acquisition, construction or completion of waterworks or light or power works or plants, or any other authorized revenue-producing public works, plant, utility or property, the legislative body of the municipality may, in its discretion determine and fix a date for the earliest maturity of the principal of such bonds not more than ten years from the date of the issue of such bonds, but, in this event, the whole amount of such indebtedness must be made payable in equal annual parts in not to exceed forty years from the time of contracting the same. The bonds shall be issued in such denominations as the legislative branch of the municipality may determine, except that no bonds shall be of a less denomination than one hundred dollars, nor of a greater denomination than one thousand dollars, and shall be payable on the day and at the place fixed in such bonds, and with interest at the rate specified in the bonds, which rate shall not be in excess of six per cent per annum, and shall be payable semi-annually, and said bonds shall be signed by the executive of the municipality, or by such other officer thereof, as the council, board of trustees, or other legislative body of the municipality shall, by resolution adopted by a two-thirds vote of all its members, authorize and designate for that purpose; and also signed by the treasurer thereof, and shall be countersigned by the clerk. The coupons of said bonds shall be numbered consecutively and signed by the treasurer.

In case of any of such officers whose signatures or countersignatures appear on the bonds or coupons shall cease to be such officer before the delivery of such bonds to the purchaser, such signatures or countersignatures shall nevertheless be valid and sufficient for all purposes the same as if they had remained in office until the delivery of the bonds. [Amendment approved March 25, 1909. Stats. 1909, p. 720. In effect immediately.]

Also amended in 1907, Stats. 1907, p. 610.

§ 6. Such bonds may be issued and sold by the legislative branch of the city, town or municipal corporation as they may determine, but for

not less than their par value, and the proceeds of such bonds shall be placed in the municipal treasury to the credit of the proper improvement fund, and shall be applied exclusively to the purposes and objects mentioned in the ordinance.

§ 7. The legislative branch of said city, town or municipality shall at the time of fixing the general tax levy, and in the manner for such general tax levy provided, levy and collect annually each year until said bonds are paid, or until there shall be a sum in the treasury of said city, town or municipality set apart for that purpose to meet all sums coming due for principal and interest on such bonds, a tax sufficient to pay the annual interest on such bonds, and also such part of the principal thereof as shall become due before the time for fixing the next general tax levy. Provided, however, that if the maturity of the indebtedness created by the issue of bonds be made to begin more than one year after the date of the issuance of such bonds, such tax shall be levied and collected at the time and in the manner aforesaid annually each year, sufficient to pay the interest on such indebtedness as it falls due, and also to constitute a sinking fund for the payment of the principal thereof on or before maturity. The taxes herein required to be levied and collected shall be in addition to all other taxes levied for municipal purposes, and shall be collected at the time and in the same manner as other municipal taxes are collected, and be used for no other purpose than the payment of said bonds and accruing interest. [Amendment approved March 19, 1907. Stats. 1907, p. 611. In effect immediately.]

§ 8. It shall be the duty of the legislative branch of every city, town or municipal corporation, wherein public improvements are being made under the provisions of this act, to make all needful rules and regulations for carrying out and maintaining such improvements, to appoint all needful agents, superintendents and engineers to properly look after the construction and operation of such public works, and in all lawful ways to protect and preserve the rights and interests of the municipality; provided, however, that in cities, towns, or municipalities operating under a charter heretofore or hereafter framed under section 8 of article 11 of the constitution, and having a board of public works, all the matters and things required in this section to be done and performed by the legislative branch of the municipality shall be done and performed by the board of public works of such city, town or municipality.

§ 9. All contracts for the construction or completion of any public work or improvement or for furnishing labor or materials therefor, as herein provided, shall be let to the lowest responsible bidder. The legislative branch of the municipality shall advertise for at least ten days in one or more newspapers published in the municipality, inviting sealed proposals for furnishing the labor and materials for the proposed work or improvement before any contract shall be made therefor. The said

legislative branch shall have the right to require such bonds as they may deem best from the successful bidder to insure the faithful performance of the contract work, and shall also have the right to reject any and all bids; provided, however, that nothing herein contained shall be construed as prohibiting the municipality itself from constructing or completing such works or improvements, and employing the labor necessary therefor; and provided further, that, in cities, towns or municipalities operating under a charter, heretofore or hereafter framed under section 8 of article 11 of the constitution and providing for a board of public works all the matters and things required in this section to be done and performed by the legislative branch of the municipality shall be done and performed by the board of public works of such city, town or municipality, and, in case such charter also prescribes the manner of letting and entering into contracts for the furnishing of labor, materials or supplies for the constructing or completion of public works or improvements, the contracts therefor shall be let and entered into in conformity with such charter. [Amendment approved March 19, 1907. Stats. 1907, p. 611. In effect immediately.]

§ 9½. Whenever the legislative branch of any municipality shall by resolution deem the expenditure of money raised by the sale of bonds under the terms of this act for the purpose for which said bonds were voted impracticable or unwise, said legislative branch of said city, town, or municipal corporation may call a special election to obtain the consent of the people of said city, town, or municipal corporation to use said money for some other specified municipal purpose. The ordinance calling such special election shall recite the new object or purpose for which the said money is proposed to be expended, and shall fix the date on which such special election will be held, the manner of holding such election and the voting for or against the expenditure of said money for said purpose, and in all particulars not recited in said ordinance such election shall be held as provided by law for holding of such municipal elections in such municipality. Such ordinance shall be published once a day for at least seven days in some newspaper published at least six days a week in such municipality, or once a week for two weeks in some newspaper published less than six days a week in such municipality, and one insertion each week for two succeeding weeks shall be a sufficient publication in such newspaper published less than six days per week. In municipalities where no such newspaper is published, such ordinance shall be posted in three public places therein for two succeeding weeks. No other notice of such election need be given. It shall require the votes of two-thirds of all the voters at such special election to authorize the expenditure of the money for the purpose mentioned in the ordinance calling said special election. [New section approved March 19, 1907. Stats. 1907, p. 634. In effect immediately.]

§ 10. Whenever the legislative branch of any municipality shall by resolution deem it necessary, they may require the treasurer of such

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municipality to give additional bonds for the safe custody and care of the public funds.

§ 11. All acts and parts of acts in conflict with this act are hereby repealed.

§ 12. This act shall not be deemed to repeal, conflict with or modify any provision of any statute of this state concerning the levy of special taxes for specific public improvements when bond issues are not contemplated.

§ 12½. All proceedings which may have been prior to the passage of this act, taken by any city, town or municipal corporation, incorporated under the laws of this state, in the manner prescribed by the said act of which this act is amendatory, for the incurring of indebtedness for the purpose of acquiring, constructing, completing or repairing any wharf or wharves, shall be and the same are hereby declared to be valid as fully as though the incurring of indebtedness for such purpose had been expressly authorized by said act, and any and all indebtedness incurred, or which may hereafter be incurred, by any such city, town or municipal corporation, or any bonds which may have been or may hereafter be issued pursuant to any such proceedings so taken or had shall be and the same are hereby declared to be valid, as fully as though the creation of said indebtedness or the issuance of said bonds had been expressly authorized by said act. [New section added March 18, 1907. Stats. 1907, p. 570. In effect immediately.]

§ 13. This act shall take effect immediately.

The amendatory act of March 19, 1907. Stats. 1907, p. 609, contained the following section "§ 5. That nothing in this act contained shall be construed as affecting the issue or sale of bonds in pursuance of proceedings begun prior to the taking effect of this act and under the provisions of the act amended hereby."

ACT 2372.

An act authorizing cities, towns, and municipal corporations to establish and maintain public assembly or convention halls, and to incur indebtedness for such improvements.

[Approved March 25, 1903. Stats. 1903, p. 412.]

§ 1. Any city, town, or municipal corporation in this state may acquire, by purchase, condemnation, or otherwise, all necessary land whereon to construct, and may construct and maintain thereon, a public assembly or convention hall, and may incur indebtedness, as hereinafter provided, to pay the cost of such improvement.

§ 2. Whenever the legislative body of any city, town or municipal corporation, shall, by resolution passed by a vote of a majority of its members, determine that the public interest or necessity demands the acquisition of the necessary land whereon to construct, and the construction or completion thereon, of a public assembly or convention

hall, the cost of which will be too great to be paid out of the ordinary annual income and revenue of the municipality it may at any subsequent meeting of such body, by an ordinance, passed by a vote of two-thirds of all its members, call a special election, and submit to the qualified voters of said municipality, the proposition of incurring a debt for the purpose set forth in said resolution. The ordinance calling such special election shall recite the object and purpose for which the indebtedness is proposed to be incurred, the estimated cost of the proposed improvement, the amount of the principal of the indebtedness to be incurred therefor, and the rate of interest to be paid on said indebtedness; and shall fix the date on which such special election will be held, the manner of holding such election, and of voting for or against such proposition; and in all other particulars not recited in said ordinance, such election shall be held as provided by law for holding municipal elections in such municipality. Such ordinance shall be published once a day for a period of five days in a daily newspaper published in said municipality, or once a week for three successive weeks in a weekly newspaper published in said municipality. No other notice of such election need be given.

§ 3. It shall require the votes of two-thirds of all the voters voting at such special election to authorize the issuance of the bonds herein provided for.

§ 4. No city, town, or municipal corporation shall incur an indebtedness under the provisions of this act, which together with all other indebtedness of said city, town, or municipal corporation, shall, in the aggregate, exceed fifteen per cent of the assessed value of all the real and personal property in said city, town or municipal corporation.

§ 5. All bonds issued under the provisions of this act shall be issued, sold, and made payable, in the manner and form prescribed for the issue, sale, and payment of municipal bonds, by an act entitled, "An act authorizing the incurring of indebtedness by cities, towns, and municipal corporations for municipal improvements, and regulating the acquisition, construction, or completion thereof," which became a law, under the provisions of the constitution, without the governor's approval, February 25, 1901.

§ 6. The proceeds of the sale of bonds issued under the provisions of this act shall be placed in the municipal treasury to the credit of a fund to be known as the public hall fund, and shall be applied, exclusively, to the purpose and object mentioned in the ordinance.

§ 7. The legislative body of said municipality shall, at the time of fixing the general tax levy, and in the manner for such general tax levy provided, levy and collect, annually, each year until said bonds are paid, a tax sufficient to pay the annual interest and the part of the principal of such bonds, that shall become due before the time for fixing the next general tax levy. and is not at the time of fixing such annual

tax levy, otherwise provided for by funds then in the treasury and set apart for that purpose. The taxes herein required to be levied and collected shall be in addition to all other taxes levied for municipal purposes, and shall be collected at the same time, and in the same manner as other municipal taxes are collected, and be used for no other purpose than the payment of said bonds and accruing interest.

§ 8. All moneys derived from the use or hire of such assembly or convention hall shall be deposited in the treasury of the municipality to the credit of said public hall fund, and shall be applied, exclusively, to the following purposes, to wit:

First—For the necessary expenses of conducting, maintaining, and insuring such hall, and of making all improvements and repairs thereof.

Second—For the payment of installments of interest or principal becoming due on said bonds until the whole of said bonded indebtedness shall have been paid.

Third—Any surplus remaining after providing for the purposes, first and second above specified, may be appropriated and used for general municipal purposes.

§ 9. The legislative body of any city, town, or municipal corporation wherein bonds have been issued for the construction or completion of a public assembly or convention hall, under the provisions of this act, shall have the power to appoint and employ all needful architects, engineers, superintendents, and agents, to prepare plans for the construction or completion of such public assembly or convention hall, and to superintend such work. All contracts for the construction or completion of such public assembly or convention hall, or for the furnishing of labor or materials therefor, shall be let to the lowest responsible bidder. The legislative body of the municipality shall advertise for at least ten days in one or more newspapers published in such municipality, inviting sealed proposals for the construction or completion of said improvement, or for the furnishing of labor and materials therefor before any contracts shall be made. The said legislative body shall have the right to require from the successful bidder, such bonds as they may deem best to insure the faithful performance of his contract. They shall also have the right to reject any and all bids. Said legislative body shall have power to appoint such officers, or agents, and to make and enforce such rules and regulations as may be necessary for the management, control, letting, and use of such public assembly or convention hall; provided, however, that in cities, towns, or municipal corporations, operating under a charter, heretofore or hereafter framed under section 8 of article 11 of the constitution, and providing for a board of public works, all matters and things required in this section to be done and performed by the legislative body of the municipality, shall be done and performed by said board of public works; provided, further, that in cities, towns, or municipal corporations not having such board of public works, the legislative body may, by ordinance, appoint a commission to select the site for said hall, to have charge and super-

vision of its construction, and to manage and control the letting and use thereof, and may, by ordinance, prescribe and regulate the powers and duties of said commission.

§ 10. This act shall take effect immediately.

ACT 2373.

To provide for changing the boundaries of municipal corporations, and to exclude territory therefrom. [Stats. 1889, p. 356.]

Citations. Cal. 85/ 370, 371, 372; 95/452; 100/572; 109/471, 478; 123/605; 148/627, 628, 641, 642; 158/544, 547, 549; 154/222, 226.

Superseded in part, at least, by 1889, p. 433, a. CCLXXX. See next act.

ACT 2374.

An act to provide for the alteration of the boundaries of and for the annexation of territory to incorporated towns and cities, and for the incorporation of such annexed territory in and as a part of such municipalities, and for the districting, government, and municipal control of annexed territory.

[Approved March 19, 1889. Stats. 1889, p. 358.]

Amended 1905, p. 551.

Citations. Cal. 128/600, 606; 133/840.

"See 1889, pp. 356, 488; 1899, p. 87. Constitutional (People v. Town of Ontario, 148 Cal. 625)."—Code Commissioner's Note.

Alteration of boundaries of incorporated towns or cities.

§ 1. The boundaries of any incorporated town or city, whether heretofore or hereafter formed, incorporated, reincorporated, organized, or reorganized, may be altered, and new territory annexed thereto, incorporated and included therein, and made a part thereof, upon proceedings being had and taken as in this act provided. The council, board of trustees, or other legislative body of any such municipal corporation, upon receiving a written petition therefor containing a description of the new territory asked to be annexed to such corporation, and signed by not less than one-fifth in number of the qualified electors of such municipal corporation, computed upon the number of votes cast at the last general municipal election held therein, must, without delay, submit to the electors of such municipal corporation, and to the electors residing in the territory proposed by such petition to be annexed to such corporation, the question whether such new territory shall be annexed to, incorporated in, and made a part of said municipal corporation. Such question shall be submitted at a special election to be held for that purpose, and no other; and such legislative body is hereby empowered to, and it shall be its duty to cause notice to be given of such election by the publication of a notice thereof in a newspaper printed and published in such municipal corporation, and also in a newspaper, if any such there be, printed and published outside of such corporation, but in the county in which the territory so proposed to be annexed is situated, in each case at least once a week for a period of four successive weeks

next preceding the date of such election. Such notice shall distinctly state the proposition to be submitted, i. e., that it is proposed to annex to, incorporate in, and make a part of such municipal corporation the territory sought to be annexed, specifically describing the boundaries thereof; and in said notice the qualified electors of said municipal corporation, and the qualified electors residing in said territory so proposed to be annexed, shall be invited to vote upon such proposition by placing upon their ballots the words "For annexation" or "Against annexation," or words equivalent thereto. Such legislative body is hereby empowered, and it shall be its duty, to establish, and in such notice of election designate the voting precinct or precincts, and the place or places at which the polls will be opened in such territory so proposed to be annexed, and also in such municipal corporation. And such place or places shall be that or those commonly used as voting places within such municipal corporation, and also that or those commonly used within such new territory, if any such there be. Such legislative body is empowered to, and it shall, appoint the officers of such election, who shall be, for each voting place in such municipal corporation, and for such voting place in said new territory, two judges and one inspector, each of whom shall be a qualified elector of the voting precinct in which he is appointed to act as an officer of such election. The ballots used at such election, the opening and closing of the polls, and the holding and conducting of such election, shall be in conformity, as far as may be, with the general laws of this state concerning elections; and the judges and inspectors of such election shall immediately on the closing of the polls, count the ballots, make up and certify the tally-sheets of the ballots cast at their respective polling-places, seal, and then immediately return the same as below provided, doing so, as nearly as practicable, in the manner provided in the election laws of this state; but the ballots, tally-sheets, and returns shall be so returned to and deposited with the clerk of such legislative body. Such legislative body shall, at the time provided for its regular meeting next after the expiration of three days from and after the date of said election, meet and proceed to open and canvass said ballots, tally-sheets, and returns; and such canvass shall be completed at such meeting, if practicable, and in any event, as soon as practicable, avoiding adjournment or adjournments, if possible, until said canvass is completed. Such canvass by such legislative body shall be conducted and completed as follows: The ballots cast in such outside territory so proposed to be annexed, together with the tally-sheets and returns belonging therewith, shall be canvassed separately; and the ballots cast inside of said municipal corporations, together with their tally-sheets and returns, shall be canvassed separately. Immediately upon the completion of such canvass said legislative body shall cause a record thereof to be made and entered upon its minutes, showing the whole number of ballots cast in such outside territory, the whole number of ballots cast in such municipal corporation, the number thereof cast in each in favor of annexation, and the number thereof cast in each against annexation; and if it shall appear from such canvass that a majority of all the ballots cast in such outside

territory, and a majority of all the ballots cast inside of said municipal corporation, are in favor of annexation, the clerk, or other officer performing the duties of clerk, of such legislative body, shall promptly make and certify, under the seal of said municipal corporation, and transmit to the secretary of state, a copy of said record so entered upon said minutes, together with a statement showing the date of said election and the time and result of said canvass, which document shall be filed by the secretary of state immediately upon the receipt thereof. From and after the date of the filing of said document in the office of the secretary of state, the annexation of such territory so proposed to be annexed shall be deemed and shall be complete, and thenceforth such annexed territory shall be, to all intents and purposes, a part of such municipal corporation, except only that no property within such annexed territory shall ever be taxed to pay any portion of any indebtedness or liability of such municipal corporation contracted prior to or existing at the time of such annexation. No territory which, at the time such petition for such proposed annexation is presented to such legislative body, forms any part of any incorporated town or city, shall be annexed under the provisions of this act.

Altering boundaries of wards.

§ 2. The legislative body of any incorporated town or city which is or shall be divided into wards, and to which territory has been heretofore or shall be hereafter annexed, must by ordinance either so alter the boundaries of the wards of such municipal corporation as to include such annexed territory in one or more wards adjoining such annexed territory, or make of such annexed territory one or more additional wards; provided, that the number of wards shall not be so increased as to exceed the number which such municipal corporation may according to law have. In altering the boundaries of wards, or creating new wards, regard must be had to the number of inhabitants, so that each ward shall contain, as near as may be, an equal number of inhabitants, exclusive of persons incapable of citizenship in this state.

§ 3. Nothing in this act provided for shall alter or affect the boundaries of any senatorial or assembly district.

Expenses, how paid.

§ 4. All proper expenses of proceedings for annexation of territory under this act, whether such annexation shall be made and completed or not, shall be paid by the municipal corporation so annexing or attempting to annex such territory. In the event that a tax for road purposes has been levied by the board of supervisors of any county against property situate in territory which, subsequent to such levy, is annexed by any town or city under the provisions of this act, but which, at the time of such annexation has not been collected, then all such taxes so uncollected shall be and become the property of the town or city to which such territory is annexed, and same shall, with other county taxes, be collected by the county tax collector, and by him paid into the county treasury of said county, after which the same shall, by the

county treasurer, be paid to such town or city, upon proper warrant therefor. The town or city clerk, or other officer performing the duties of clerk of such town or city, shall, at any regular meeting of the board of supervisors of said county, present, and file a verified claim for any money thus due such town or city, setting forth the fact, and the date of such annexation, and the amount in the hands of said county treasurer so due such town or city. Said claim shall be audited by the board of supervisors in the manner in which other claims against the county are audited, and if the amount thereof is correct, the same shall be allowed, and the county auditor instructed to draw his warrant for said amount against the road fund of the district in which such annexed territory is situated. This law shall apply to all such taxes not paid into the county treasury prior to the passage of this act. [Amended 1905, p. 551; took effect immediately.]

§ 5. This act shall take effect and be in force from and after its approval.

There was also passed at the same session the following act:

ACT 2375.

An act to provide for changing the boundaries of cities and municipal corporations, and to exclude territory therefrom.

[Approved March 20, 1889. Stats. 1889, p. 433.]

Amended 1905, p. 715.

Citations. Cal. 85/370, 371; 95/452; 139/626.

Exclusion of territory and changing boundaries of municipal corporations.

§ 1. The boundaries of any city or municipal corporation may be altered, and territory excluded therefrom after proceeding had, as required in this section. The council, board of trustees, or other legislative body of such corporation, shall, upon receiving a petition therefor, signed by not less than a majority of the qualified electors thereof, as shown by the vote cast at the last municipal election held therein, submit to the electors of such corporation the question whether such territory as is proposed by such petition shall be excluded from such municipal corporation and cease to be a part thereof. Such question shall be submitted at a special election to be held for that purpose, and such legislative body shall give notice thereof by publication in a newspaper printed and published in such corporation for a period of four weeks prior to such election. Such notice shall distinctly state the proposition to be so submitted, and shall designate specifically the boundaries of the territory so proposed to be excluded. And the electors shall be invited thereby to vote upon such proposition by placing upon their ballots the words "For exclusion" or "Against exclusion," or words equivalent thereto; such legislative body shall also designate the place or places at which the polls will be opened in such territory so proposed to be excluded, which place or places shall be that or those usually used for that purpose within such territory, if any such there be, and for the purposes of this act, the qualified electors residing in the terri-

tory proposed to be excluded shall be entitled to vote at the polls in such territory, and not elsewhere. Such legislative body shall also appoint and designate in such notice the names of the officers of election. Such legislative body shall meet on the Monday next succeeding the day of such election, and proceed to canvass the votes cast thereat. The votes cast in such territory so proposed to be excluded shall be canvassed separately, and if it shall appear on such canvass that a majority of all the votes cast in such territory, and a majority of all the votes in such corporation, shall be for exclusion, such legislative body shall, by an order entered upon their minutes, cause their clerk, or other officer performing the duties of clerk, to make and transmit to the secretary of state a certified abstract of such vote, which abstract shall show the whole number of electors voting in such territory, the whole number of electors voting in such corporation, exclusive of such territory, the number of votes cast in each for exclusion, and the whole number of votes cast in each against exclusion. From and after the date of filing such abstract, such exclusion of territory from such municipal corporation shall be deemed complete, and thereafter such territory shall cease to be a part of such municipal corporation; provided, that nothing contained in this act shall be held to relieve in any manner whatsoever any part of such territory from any liability for any debt contracted by such municipal corporation prior to such exclusion; and provided further, that such municipal corporation is hereby authorized to levy and collect from any territory so excluded, from time to time, such sums of money as shall be found due from it on account of its just proportion of liability for any payment on the principal or interest of such debts. Such assessment and collection shall be made in the same manner and at the same time that such assessment and collection is levied and made upon the property of such municipal corporation for any payment on account of such debts; and provided further, that any such territory so excluded from any municipal corporation may at any time tender to the legislative body of such municipal corporation the amount for which such territory is liable on account of such debts, and after such tender is made, such authority as is herein given such municipal corporation to levy and assess taxes on such excluded territory shall cease; provided, however, that after an election shall have been held for the exclusion of any portion of a municipal corporation, if the vote shall be against exclusion, no election for the exclusion of the same territory shall again be held within three years from the date of such former election. [Amended 1905, p. 715.]

§ 2. This act shall take effect and be in force from and after its passage.

ACT 2376.

An act providing for the adjustment, settlement, and payment of any indebtedness existing against any city or municipal corporation at the time of exclusion of territory therefrom, and the division of

the property thereof. [Approved March 25, 1893. Stats. 1893, p. 536.]

Codified by §§ 1822c-1822f, Code of Civil Procedure.

ACT 2377.

To provide for the alteration of the boundaries of incorporated towns and cities by the annexation of uninhabited territory thereto, and for the incorporation of such annexed territory in and as a part of such municipality, and for the districting, government and municipal control of annexed territory. [Stats. 1899, p. 37.]

Citations. Cal. 148/684, 640, 642.

See *People v. Ontario*, 148 Cal. 625.

ACT 2378.

Municipal corporations act, enabling them to annex adjacent property. [Stats. 1871-72, p. 50.]

Repealed 1873-74, p. 535.

ACT 2379.

To provide for changing the boundaries of cities and municipal corporations, and to exclude territory therefrom. [Approved March 19, 1889. Stats. 1889, p. 356.]

Citations. Cal. 85/370, 371, 372; 95/452; 100/572; 109/471, 473; 123/605.

The code commissioners say this act was superseded, in part at least, by 1889, p. 438, ante. See Act 2375, ante.

ACT 2380.

To enable the board of supervisors, town council, board of aldermen, or other legislative body of any city and county, city, or town, to obtain data and information, from any corporation, company, or person supplying water to such city and county, city, or town, requiring such boards, town council, or other legislative body to perform the duties prescribed by section 1 of article 14 of the constitution, and prescribing penalties for the nonperformance of such duties. [Approved March 7, 1881. Stats. 1881, p. 54.]

Amended 1885, p. 95.

Citations. Cal. 61/5, 61/28, 44, 45; 82/331, 335, 336; 100/138; 113/479, 487, 579; 122/288.

Unconstitutional in part. *Fitch v. Supervisors*, 122 Cal. 285.

See this act, tit. "Water Companies," post, 4348. See, also, Act 4346, post.

ACT 2381.

Authorizing municipalities of less than the first class to obtain, by purchase, donation, or devise, lands for cemetery purposes; and authorizing the board of trustees of said municipalities to make all necessary rules and regulations for the government and disposition of the same. [Stats. 1899, p. 22.]

ACT 2382.

An act to ratify and confirm the conveyance of certain property to trustees for charitable or educational purposes by the city council or trustees of any city of less than fifty thousand inhabitants, or of any incorporated town.

[Approved March 8, 1889. Stats. 1889, p. 94.]

Confirming conveyance of property for charitable or educational purposes.

§1. Wherever the city council or trustees of any city of less than fifty thousand inhabitants, or of any incorporated town, has by deed of trust conveyed property, or any portion thereof, that has been set apart for a public park, to trustees, for charitable or educational uses, such conveyance is hereby ratified and confirmed; provided, that no institution now existing or to be established on such property shall be private in its benefits, or sectarian in its work or teachings, or be to any extent under the management or control of or in any way tributary to any religious creed or order, church, or sectarian denomination whatsoever; provided further, that land so conveyed shall be kept open as public grounds by the trustees of such institutions as are or may be placed thereon, and that the public visitation of such grounds shall not be restricted, excepting by such reasonable regulations as park property and the proper maintenance of such institutions may require; provided, further, that property so conveyed shall revert to the grantors, whenever and so far as the grantees do not use the same in accordance with the stipulations of the deed of trust and with the requirements of this statute.

§2. This act shall take effect immediately.

ACT 2383.

An act to provide for the consolidation of municipal corporations.

[Approved March 11, 1909. Stats. 1909, p. 282.]

Consolidation of municipalities, proceedings for.

§1. Two or more municipal corporations, each one of which is contiguous to the other, or to one of the others of said municipal corporations, either one or more of which shall be incorporated under general laws, or operating under a freeholders' charter, may become consolidated into one municipal corporation, to be thereafter governed in the name and under the general municipal incorporation law, or freeholders' charter, as the case may be, under which the greater or greatest in population of such municipal corporations, as shown by the last federal census, may be governed, pursuant to proceedings had and taken in accordance with the provisions of this act. If any one or more of said municipal corporations shall have been incorporated subsequent to the taking of the last federal census, the greater or greatest in population of such municipal corporations shall, for the purposes of this act,

be deemed to be the municipal corporation in which the larger or largest vote was cast at the last preceding general state election.

Submission of question to electors. Special election.

§ 2. The council, board of trustees, or other legislative body of the one of said municipal corporations having the greater or greatest population, ascertained as hereinbefore provided, shall, upon receiving a petition therefor, signed by not less than one-fifth of the qualified voters of each of said municipal corporations designated in said petition and proposed to be consolidated, as shown by the total number of votes cast at the last preceding general state election in each of said municipal corporations respectively, forthwith submit to the qualified electors of each of such corporations the question whether such municipal corporations shall become consolidated into one municipal corporation, to be governed in the name, and under the freeholders' charter, or as a city of the class under the general municipal incorporation law, as the case may be, under which the greater or greatest in population of such municipal corporations, ascertained as hereinbefore provided, may be governed at the time such petition is so received. Such legislative body shall designate a day upon which a special election shall be held in each of such municipal corporations so proposed to be consolidated for the purpose of submitting to the qualified electors of each of said municipal corporations the question whether such consolidation shall be effected, and shall cause written notice that such petition has been received, and of the date of such election, to be given by the clerk thereof to the council, board of trustees, or other legislative body of each of the other of such municipal corporations.

It shall thereupon be the duty of the legislative body of each of the municipal corporations so proposed to be consolidated to forthwith give notice of such election by publication in a newspaper printed, published and circulated in such municipal corporation, and designated for that purpose, by such legislative body, if any such newspaper be printed and published therein, at least once a week for four successive weeks prior to such election. If there be no newspaper printed, published and circulated in any one or more of such municipal corporations, the legislative body thereof shall cause such notice to be posted in three of the most public places in such municipal corporation in which there is no such newspaper for at least four weeks prior to such election. Such notice shall distinctly state the proposition so to be submitted, the names of the municipal corporations so proposed to be consolidated, the date of such election, which date shall be within twenty days after the expiration of the publication or posting of such notice, and shall be the same for all such municipal corporations so proposed to be consolidated. The legislative body of each such municipal corporation shall establish, and in such notice of election shall designate the election precinct or precincts for said special election and the place or places at which the polls therefor will be opened in each municipal corporation proposed to be consolidated respectively; and in establishing such election precincts, such legislative body may consolidate the precincts

which existed in such municipal corporation for the holding of the last preceding general state election, into special election precincts and to a number not exceeding three for each such special election precinct, and shall number such special election precincts so established consecutively, and each such special election precinct so established shall, for the purpose of such election, be known by the number so designated. Such notice shall direct the electors of each municipal corporation so proposed to be consolidated to vote upon the proposition of such proposed consolidation in the manner hereinafter provided. The legislative body of each such municipal corporation shall appoint officers of election from the registered electors of each precinct, or special election precinct, so established, as aforesaid, whose names appear upon the last assessment-roll of such municipal corporation, to serve as election officers only in the election precinct in which they are registered and actually reside, to constitute the election board for such precinct, which shall consist of two judges and one inspector. Upon the ballots to be used at such election there shall be printed the words "for consolidation," and "against consolidation," in separate lines, and there shall be a voting square at the right of and opposite to each such proposition. If an elector shall stamp a cross (X), in the voting square after and opposite to the printed words "for consolidation," his vote shall be counted in favor of consolidation; if he shall stamp a cross (X) in the voting square after and opposite to the printed words against consolidation, his vote shall be counted against consolidation. The ballots used at such election, the opening and closing of the polls, and the holding and conducting of such election shall be in conformity, as near as may be, with the general laws of this state concerning general elections, except as herein provided.

The judges and inspectors of each such election precinct shall immediately on the closing of the polls canvass the ballots, make up and certify the tally-sheets of the ballots cast at their respective polling-places, seal up, and immediately return the ballots and tally-sheets as hereinafter provided. As soon as all the ballots are counted and sealed up, a statement must be attached to the tally-sheets showing the total number of votes cast, the number of votes cast in favor of consolidation, the number of votes cast against consolidation in each such election precincts and such statement must be signed by the members of the election board. The ballots and tally-sheets and returns shall be delivered to and deposited with the clerk of the legislative body of the municipal corporation, which received the petition hereinbefore mentioned, and submitted the question of such consolidation. In all particulars except as hereinbefore provided said canvass shall be conducted and said ballots and tally-sheets shall be returned as provided by law for general elections. The legislative bodies of each of such municipal corporations so proposed to be consolidated shall meet in joint convention at the regular place of meeting of the legislative body of the one of such municipal corporations that received the petition hereinbefore mentioned and submitted such question of consolidation as hereinbefore provided, on the Monday next succeeding the day of such election at the

hour of ten o'clock A. M. of said day, for the purpose of canvassing the returns of said election and certifying the result thereof; provided however, that the presence of a majority of the members of each of such legislative bodies at such joint convention shall constitute a quorum thereof, and shall be sufficient to enable such joint convention to perform the duties herein prescribed. The president of the council, board of trustees, or other legislative body of the municipal corporation in which such joint convention is held, shall be ex-officio president of such joint convention, and the city clerk of such municipal corporation shall be ex-officio the clerk thereof. Such joint convention shall at the time hereinbefore appointed, meet and proceed to canvass said returns, and such canvass shall be completed at such meeting if practicable, and in any event, within three days thereafter. Such canvass by such joint convention shall be conducted and completed as follows: The returns of the votes cast in each such municipal corporations shall be canvassed separately, and in such order as said joint convention, by a majority vote, shall direct. Immediately upon the completion of such canvass said joint convention shall cause a record thereof to be made and entered upon its minutes, showing the total number of votes cast in each such municipal corporation, the number thereof cast in each in favor of consolidation, and the number thereof cast in each against consolidation. If it shall appear from such canvass that a majority of the votes cast in each such municipal corporation shall be in favor of such consolidation, such joint convention, by an order entered upon its minutes shall declare the result and cause the clerk thereof to make an original abstract of the result of such election in each such municipal corporation, which abstract shall show the total number of votes cast at such election in each such municipal corporation, the number of votes cast in each for consolidation, and the number of votes cast in each against consolidation. Said abstract shall be signed by the president of such joint convention, and attested by the clerk thereof, under the seal of the municipal corporation in which such joint convention shall be held. Said clerk shall also make certified copies of such abstract equal in number to the number of municipal corporations in which such election was held; one of which he shall file in his office, as city clerk of the municipal corporation in which such joint convention was held, and the other certified copies of such abstract shall be delivered one to each of the clerks of the other municipal corporations in which such election was held, within three days after the completion of such canvass by such joint convention; and the same shall be presented to the legislative body of each such municipal corporations by the clerk thereof at its next regular meeting after the delivery thereof to him, as aforesaid, and recorded upon the minutes of such legislative body. The clerk of such joint convention shall keep a record of its proceedings, and upon the completion of such canvass shall file such record in his office, as clerk of the municipal corporation in which such joint convention shall be held. Upon the recording of such abstracts in the minutes of the legislative body of each municipal corporation, the clerk thereof shall certify that fact to the city clerk

of the municipal corporation in which such joint convention was held, who shall transmit to the secretary of state the said original abstract of the result of said election, made and signed as hereinbefore provided, and said original abstract shall be filed by the secretary of state in his office immediately upon receiving the same, and a certificate of the filing of such original abstract in his office shall be by the secretary of state transmitted forthwith to the clerk of the municipal corporation in which such joint convention was held.

In the event that the one of such municipal corporations so proposed to be consolidated, having the greater or greatest population ascertained as hereinbefore provided, shall be operating under a freeholders' charter, such consolidation shall be deemed to be completed, and such municipal corporations shall be deemed to be consolidated into a new municipal corporation upon the filing of such original abstract in the office of the secretary of state, as aforesaid; and thereupon, said freeholders' charter shall ipso facto be and become the charter of such consolidated municipal corporation, which shall operate and be governed as a new municipal corporation in the name of and under such freeholders' charter of the one of such municipal corporations so consolidated having the greater or greatest population, and the other or others of the municipal corporations so consolidated shall be ipso facto dissolved, and discontinued, and any freeholders' charter thereof shall be deemed to be surrendered and annulled. And upon the completion of such consolidation, such other or others of the municipal corporations so consolidated shall be deemed to be annexed to and joined to and merged into the one of said municipal corporation so operating under a freeholders' charter and having the greater or greatest population, as aforesaid.

In the event that the one of such municipal corporations so proposed to be consolidated, having the greater or greatest population, ascertained as hereinbefore provided, shall not be operating under a freeholders' charter, and the electors of all such municipal corporations proposed to be consolidated shall vote in favor of consolidation, and all other acts and proceedings for the consolidation of such municipal corporations into one municipal corporation shall have been severally, duly and regularly done and performed as hereinbefore provided, and the original abstract mentioned in this section of this act shall have been filed in the office of the secretary of state as aforesaid, thereupon the legislative body of the one of such municipal corporations so proposed to be consolidated having the greater or greatest population, shall proceed to call a special election to be held in all the municipal corporations so proposed to be consolidated, for the election of the officers required by law to be elected in corporations of the class to which the consolidated municipal corporation shall belong when such consolidation is completed. Such election shall be held within ninety days after the filing of such original abstract in the office of the secretary of state, as hereinbefore provided, and shall be called and conducted in all respects in the manner prescribed, or that may hereafter be prescribed by law for municipal elections in municipal corporations of such class.

The returns of such election shall be canvassed by the legislative body calling the same at its next regular meeting after such election, in the manner provided by law, and upon the completion of such canvass shall declare the result thereof, and cause the same to be entered upon its minutes. From and after the date of such entry, such consolidation shall be deemed to be completed, and such municipal corporation shall be deemed to be consolidated into a new municipal corporation; and thereupon such new corporation shall be governed in the name of and under the general law applicable to municipal corporations of the class to which such new corporation shall belong, with the powers conferred, or that may be hereafter conferred upon municipal corporations of such class. The officers elected at such election shall be entitled immediately to enter upon the duties of their respective offices, upon qualifying in accordance with law, and shall hold said offices respectively only until the next general municipal election to be held in such municipal corporation, and until their successors are elected and qualified.

Titles to municipal property. Vested rights. Officers. Debts. Ordinances.

§ 3. Any municipal corporation created by the consolidation of municipal corporations under the provisions of this act, shall for all purposes be deemed and taken to be the successor of the several municipal corporations so consolidated therein; and the title to any property owned or held by any such municipal corporations or in trust therefor, or by any officer or board of any such municipal corporations, in trust or otherwise for public use, shall, upon such consolidation being completed, as hereinbefore provided, ipso facto be vested in such new municipal corporation, or any officer or board thereof which has the power to hold, or control such property under the freeholders' charter, or other law under which the greater or greatest in population of the municipal corporations so consolidated was theretofore governed.

That upon the completion of such consolidation, if the greater or greatest population of such municipal corporations so consolidated be operated under a freeholders' charter, all persons then in possession or occupancy of the several offices in each of the other municipal corporations so consolidated, shall immediately quit and surrender the possession of such offices, which shall thereupon cease and determine, and they shall forthwith deliver all moneys, funds, books, papers, archives, and records in their official custody, and all other property of such municipal corporations in their hands, or under their control to the proper officers under the freeholders' charter of such greater or greatest municipal corporation; and if the greater or greatest in population of such municipal corporations so consolidated be theretofore organized and existing under the general municipal incorporation laws of this state, all persons then in possession or occupancy of the several offices and in each of the municipal corporations so consolidated, shall, upon the completion of such consolidation, immediately upon the entry of the officers of the new municipal corporation created by such consolidation, upon the duties of their respective offices as hereinbefore provided, de-

liver all moneys, funds, books, papers, archives, and records in their official custody, and all other property of such municipal corporations in their hands, or under their control, to the proper officers of such new municipal corporation.

That any consolidation of municipal corporations effected under the provisions of this act shall not affect any debts, demands, liabilities or obligations of any kind existing in favor of or against any such municipal corporations so consolidated, at the time of such consolidation or any action or proceeding then pending in any court in which any such debt, demand, liability or obligation of any kind may be involved, or any action or proceeding brought by or against any such municipal corporation prior to such consolidation; but all such proceedings shall be continued and concluded, by final judgment or otherwise, in all respects the same as if such consolidation had not been effected. All ordinances of any municipal corporations consolidated under the provisions of this act, except those of the one having the greater or greatest population shall immediately, upon such consolidation being effected, be deemed to be repealed and of no further force and effect; provided, however, that such repeal shall not operate to discharge any person, from any liability, civil or criminal, then existing, nor to affect any prosecution then pending for any violation of any such ordinances; and all cases then pending in any justices' court, police court or court of any recorder, or other judicial municipal magistrate or officer of any of the municipal corporations so consolidated, except of the one having the greater or greatest population shall, upon such consolidation being effected be deemed ipso facto to be transferred to justices' court, police court or court of any recorder, or other judicial municipal magistrate or officer of the one of such municipal corporations of the greater or greatest population having jurisdiction of proceedings or misdemeanors or of other actions civil or criminal of the character so transferred; provided further, that such repeal shall not apply to ordinances under which vested rights have accrued, or to ordinances relating to proceedings for street or other public improvements, or to proceedings for opening, extending, widening or straightening streets or other public places, or to proceedings for changing the grade thereof, all of which proceedings shall be continued and conducted by and under the authority of the new consolidated municipal corporation, with the same force and effect as if continued and conducted by and under the authority of the municipal corporation by which they were commenced. And all ordinances of the one of the municipal corporations consolidated under the provisions of this act having the greater or greatest population, shall, upon the completion of such consolidation, ipso facto have full force and effect in and throughout the new consolidated municipal corporation.

Provision for payment of debts.

§ 4. That no property in either of the municipal corporations consolidated under the provisions of this act shall ever be taxed to pay any portion of any indebtedness or liability of any of the other such municipal corporations, contracted or incurred prior to or existing at the time

of such consolidation. The legislative body of any consolidated municipal corporation, consolidated under the provisions of this act, shall provide for the payment of the indebtedness or liability of each of the municipal corporations consolidated therein and shall levy and collect the necessary taxes therefor, and for that purpose, and for all other purposes, such consolidated municipal corporation and its officers shall be deemed the successor and successors of such municipal corporations so consolidated and their respective officers.

Boroughs, right to establish.

§ 5. In the event that the greater or greatest in population of any municipal corporations, consolidated under the provisions of this act, shall be operating under a freeholders' charter, which charter shall at any time provide that a borough or boroughs may be established in any territory, or incorporated city or town, annexed to or joined to such municipal corporation, such borough or boroughs to be governed as in such charter provided; nothing in this act contained shall prevent or be construed to prevent any other municipal corporation, or any portion thereof so consolidated with the municipal corporation so operating under such freeholders' charter, from becoming a borough under such freeholders' charter, to be established and governed as therein provided.

Expenses of consolidation.

§ 6. All proper expenses of proceedings for the consolidation of municipal corporations under this act, shall, if such consolidation be made and completed, be paid by the consolidated municipal corporation; and if such consolidation be not completed, each municipal corporation shall pay the expenses of calling and holding said election within such corporation.

§ 7. All acts and parts of acts in conflict with this act are hereby repealed.

ACT 2384.

An act authorizing municipal corporations, other than freeholder charter cities, to change their names, and providing the procedure therefor.

[Approved March 3, 1909. Stats. 1909, p. 138.]

§ 1. The name of any city or municipal corporation within this state, except a freeholder charter city, may be changed upon proceedings taken as in this act provided. The council board of trustees or other legislative body of such corporation, shall, upon receiving a petition asking that the name of the city be changed, and stating the name to which it is proposed to change it, signed by not less than fifty per cent of the qualified electors thereof, as shown by the vote cast at the last municipal election held therein, submit to the electors of such corporation the question whether the name shall be changed as proposed in such petition. Such questions shall be submitted at a special election to be held for that purpose, and such legislative body shall give

notice thereof by publication at least once a week for a period of four weeks, prior to such election, in a newspaper printed and published in such corporation.

Such notice shall distinctly state the proposed name, and the electors shall be invited thereby to vote for or against such proposed change of name. If upon canvassing the votes cast at such election it is found that two-thirds of the total number of votes so cast are in favor of the proposed change of name, the board of trustees shall file a statement of the holding of such election and the result thereof, with the secretary of state, and also the board of supervisors of the county in which the city or municipal corporation is situated, and from thenceforth and thereon the name shall be changed to that proposed at the said election.

§ 2. If upon canvassing the votes cast at such election it is found that two-thirds of the total number of votes so cast are not in favor of such change of name, no further proceedings shall be had for a term of ten years thereafter.

§ 3. In all other respects not recited herein, the election herein mentioned, shall be held as provided by law for holding municipal elections in such municipality.

§ 4. This act shall take effect and be in force from and after its passage.

ACT 2385.

An act approving leases heretofore made by counties or municipalities of certain lands belonging to the state.

[Approved March 23, 1907. Stats. 1907, p. 987.]

§ 1. In all cases in which any county or municipality in the state of California has, prior to the first day of January, 1907, and subsequent to the first day of January, 1901, leased to any person or persons any tide or submerged lands belonging to the state, within the municipal boundaries of such county or municipality, or within boundaries over which it was at the time of any such lease, acting in the exercise of de facto authority, the exclusive right to the use and possession of such lands from the date of such lease, for the full term thereof, not exceeding fifty (50) years in any case, is hereby confirmed in the lessee or lessees thereof and their successors in interest; and priority in date of any such leases shall give priority in right; provided, that nothing in this act contained shall be deemed or taken to confirm any such leases, unless the property therein described shall at all times during the continuance of such leases be applied by the lessees, or their successors in interest, to public or quasi-public uses; and provided further, that within one (1) year from the date this act shall take effect said lessee or lessees, or their successors in interest, shall commence in good faith the improvement of said premises for the purposes aforesaid and shall prosecute the same to completion with reasonable diligence; and provided,

further, that nothing herein contained shall be deemed to extend or revive any lease which by its terms has expired, nor to apply to any interest or claim of interest other than under a lease.

§ 2. This act shall take effect and be in force upon its passage.

ACT 2386.

An act authorizing any incorporated town, city or municipal corporation to permit the construction and maintenance of any state or county highway or boulevard over highways or streets in its incorporated limits, or any portion thereof, by the supervisors or highway commissioners of the county.

[Approved March 19, 1909. Stats. 1909, p. 429.]

§ 1. Any incorporated city, town or municipal corporation in this state, is hereby authorized and empowered to permit by ordinance the use of its streets and highways by the board of supervisors or highway commissioners of the county, for the purpose of constructing and maintaining thereon any highway or boulevard as part of a state or county system of roads through its incorporated limits, or any portion thereof.

ACT 2387.

An act authorizing municipal corporations, counties, and cities and counties to acquire and hold lands by purchase or otherwise, or by lease for a term of years, for the purpose of developing and encouraging agricultural, horticultural, or botanical products and exhibiting the same, or for the purpose of erecting, rebuilding or furnishing historical museums or art galleries thereon.

[Approved March 22, 1909. Stats. 1909, p. 655.]

§ 1. Any municipal corporation, county, or city and county in this state is hereby authorized and empowered to acquire and hold by purchase or otherwise, or by lease, lands situated within the limits thereof, for a term not exceeding fifty years, for the purpose of developing and encouraging agricultural, horticultural, or botanical products and for exhibiting the same, or for the purpose of erecting, rebuilding or furnishing historical museums or art galleries thereon under such terms and conditions as may be approved by the city council, board of trustees, or other legislative body of such municipal corporation, or by the board of supervisors of such county or city and county.

§ 2. All acts and parts of acts in conflict with this act, are hereby repealed.

§ 3. This act shall take effect immediately.

ACT 2388.

An act granting to municipal corporations of the state of California, rights of way over public lands of the state for the location, construction and maintenance of waterworks and power plants; and

the right to take material from such lands for the construction of such works and to take any waters belonging to the state for the purpose of supplying any such municipality and its inhabitants with water.

[Approved March 20, 1909. Stats. 1909, p. 581.]

Grant of rights of way over state lands. Right to take waters.

§ 1. That there is granted to every municipal corporation of the state of California, the right of way for the location, construction and maintenance of waterworks and works for the generation and distribution of electrical power, and for every necessary adjunct thereto, over any swamp, overflowed, or other public lands of the state, not otherwise disposed of or in use, not in any case exceeding in length or width that which is necessary for the construction of such works or adjuncts, or for the protection thereof, and not, in any case, exceeding one hundred feet in width along each side of the marginal limits of such works or adjuncts; also the right to take from any of the lands belonging to the state adjacent to the works of such corporation, all materials, such as wood, stone and earth, naturally appurtenant thereto, which may be necessary and convenient for the original construction of such works and adjuncts; and also the right to take any waters belonging to the state, not otherwise disposed of, now or hereafter flowing or existing in any stream or lake intersected, crossed, or tapped by said waterworks, so far as may be necessary to give such municipality and its inhabitants an ample supply of water for all municipal, domestic, irrigation and manufacturing purposes. Whenever any municipal corporation shall desire to take any of the said waters so belonging to the state, for the purposes mentioned in this act, the legislative authority thereof shall cause a notice that said municipal corporation intends to take such waters, to be posted and recorded in the manner provided in section 1415 of the Civil Code of California. Said notice shall be signed in the corporate name of such municipal corporation by its mayor, or other officer, authorized so to do by the legislative authority thereof. In taking any of said waters, under this act, such municipal corporation shall comply with and be subject to all the provisions of title VIII, sections 1410 to 1422, inclusive, of said Civil Code; provided however, that for the purpose of the taking of any of said waters by such municipal corporation, under the provisions of this act, the words "waterworks," as used herein, shall be construed to be the works by which such municipal corporation proposes to convey said waters, so taken from such stream or lake, to the place of intended use and store the same; and provided further, that the construction of said waterworks shall be deemed to be included in, and to be a part of, the construction of the works in which said municipal corporation intends to divert said waters, within the meaning of section 1416 of the said Civil Code.

Change of route, reversion of lands.

§ 2. If the route or location of any such works or adjuncts is changed so as not to cover or cross the lands selected, or the use of the land

selected is abandoned, such selected lands revert, and the title thereto is reinvested in the state or its grantees free from all such uses.

Plat of lands to be furnished certain officers.

§ 3. When any selection of the right of way or land for such water-works or adjuncts thereto is made by any municipal corporation, the legislative authority thereof must transmit to the surveyor general, controller of state and recorder of the county, in which the selected lands are situated, a plat of the lands so selected, giving the extent thereof and the uses for which the same is claimed or desired, duly verified to be correct, and if approved, the surveyor general must so indorse the plat and issue to the corporation a permit to use such right of way and lands, unless on petition properly presented to a court of competent jurisdiction, a review is had and such use prohibited.

§ 4. This act shall take effect immediately.

ACT 2389.

An act authorizing municipal corporations to permit other municipal corporations to construct and maintain sewers, water-mains, and other conduits therein, also to construct and maintain sewers, water mains, and other conduits for their joint benefit, and at their joint expense, and to make and enter into contracts for said purposes.

[Approved March 22, 1909. Stats. 1909, p. 677.]

§ 1. That any municipal corporation, under such terms and conditions as may be prescribed by the city council, or other legislative body thereof, is hereby authorized and empowered to permit any other municipal corporation to construct and maintain sewers, water mains or other conduits in, across, or along the streets and other public places of such municipal corporation, and to use the same for such purposes, under the provisions of this act, and not otherwise.

§ 2. Whenever the city council, or other legislative body of any municipal corporation, shall find, and by resolution shall declare, that the location of such municipal corporation, or any portion of the territory included therein, is such that the same cannot be adequately or conveniently provided with sewers, water mains or other conduits, without the construction and maintenance by such municipal corporations, of certain sewers, water mains, or other conduits connecting therewith, in, across, or along certain streets, or other public places of any other municipal corporation, or corporations, such city council, or other legislative body, may cause a copy of such resolution to be submitted to the council, or other legislative body of such other municipal corporation or corporations in which such streets or other public places are situated. Said resolution shall contain a description of the sewers, water mains, or other conduits proposed to be constructed and maintained in such other municipal corporation or corporations, and shall designate the streets, or other public places thereof, in, across or along which such sewers,

water mains, or other conduits are so proposed to be constructed and maintained. Said resolution shall be accompanied by a request in writing, that the municipal corporation on behalf of which the same is made, signed by the clerk thereof, be granted permission to construct and maintain the sewers, water mains or other conduits described in said resolution. The city council, or other legislative body of any municipal corporation receiving such request and a copy of such resolution may by ordinance grant such permission at its discretion, and under such terms and conditions as it shall therein prescribe. If the permission granted under the provisions of this section shall be for the construction and maintenance of sewers, the city council, or other legislative body of any municipal corporation granting the same may, as a condition to the exercise of such permission, require that said municipal corporation shall have the right to connect its sewers with the sewers to be constructed under such permission, and to use the same in connection with its sewer system, upon the payment by it of such proportionate part of the cost of construction and maintenance of such sewers to the municipal corporation by which the same shall be constructed, as may be determined by resolutions of the city councils, or other legislative bodies, of both municipal corporations; such payment to be so made at such times and in such amounts as may be so determined.

§ 3. All contracts for the construction or completion of any sewers, water mains or other conduits, or for furnishing labor or materials therefor, to be constructed by any municipal corporation in, across or along the streets of any other municipal corporation or corporations, as herein provided, shall be let to the lowest responsible bidder. The city council or other legislative body of the municipal corporation so constructing such sewers, water mains or other conduits, under permission granted as in this act provided, shall advertise for at least ten days in one or more newspapers published in such municipal corporation, inviting sealed proposals for furnishing the labor and materials for the proposed work before any contract shall be made therefor. The said city council, or other legislative body, shall require such bonds as it may deem best from the successful bidder to insure the faithful performance of the contract work, and shall also have the right to reject any and all bids; provided, however, that nothing herein contained shall be construed as prohibiting such municipal corporation itself from constructing or completing such works, and employing the labor necessary therefor, without such advertisement for proposals or letting of a contract; and provided, further, that in any municipal corporation operating under a freeholders' charter, heretofore or hereafter framed under section 8 of Article XI of the constitution, and providing for a board of public works, all the matters and things required in this section to be done and performed by the city council, or other legislative body of such municipal corporation, shall be done and performed by the board of public works thereof; and provided, further, that in case such charter or general law under which such municipal corporation is operating or existing, prescribes the manner of letting and entering into contracts for the

furnishing of labor, materials or supplies, for the construction or completion of public works or improvements, the contracts for such sewers, water mains, or other conduits shall be let and entered into in conformity with such charter or general law.

§ 4. Whenever the councils, or other legislative bodies of two or more municipal corporations shall find, and by resolutions adopted by them shall declare, that it will be for the interest or advantage of such municipal corporations so to do, such municipal corporations, by their respective city councils, or other legislative bodies, may enter into a joint agreement authorizing the construction and maintenance of sewers, water mains, or other conduits situated in the streets or other public places of either or any of such municipal corporations, or in part outside of the limits thereof, at the joint cost and expense of, and for the joint use and benefit of such municipal corporations, upon such terms and conditions, and under such regulations, as may be approved by the city councils or other legislative bodies of all such municipal corporations; and the city council or other legislative body of each such municipal corporation may bind and obligate such municipal corporation to pay such proportionate part of the cost of the construction and maintenance of such sewers, water mains, or other conduits at such times and in such installments as may be so approved. All contracts for the construction of sewers, water mains or other conduits, under the provisions of this section shall be made and entered into by the one of such municipal corporation designated by the city councils or other legislative bodies of all such municipal corporations, and in the manner provided in section 3 of this act. Two or more municipal corporations may also, by their city councils, or other legislative bodies, enter into an agreement or agreements with each other for the joint use by such municipal corporations of any sewers, water mains, or other conduits theretofore, in whole or in part, constructed in the streets or other public places of either or any such municipal corporations, upon such terms and conditions as they may, by mutual agreement made by their respective city councils, or other legislative bodies, determine to be proper.

§ 5. This act shall take effect immediately.

TITLE 334.

MUNICIPAL WATER DISTRICTS.

ACT 2390.

An act to provide for the incorporation, organization and management of municipal water districts.

[Approved April 26, 1909. Stats. 1909, p. 1097.]

Municipal water district.

§ 1. A municipal water district may be organized, and incorporated and managed as herein provided and may exercise the powers herein expressly granted or necessarily implied.

Ordinance, what must recite.

§ 2. When any municipality in the state of California desires to organize such a municipal water district, as herein provided for, the legislative body of any municipal corporation, at any regular meeting of such body, may pass an ordinance reciting:

1. The name of the city adopting the ordinance;
2. That the public interest requires the incorporation of a municipal water district;
3. The names of the municipalities which it is desired to include within the district;
4. The name of the district which shall include the words "municipal water district."

Copy to other municipalities.

§ 3. Within ten days after such ordinance becomes a law the clerk of the said legislative body adopting the same shall transmit by registered mail a certified copy thereof to the legislative body, or bodies, of the other municipalities named therein, addressed to the clerk thereof.

Approval by other municipalities.

§ 4. Within forty days after the receipt of such certified copy of such ordinance by any municipality named therein the legislative body thereof shall by ordinance either approve or disapprove the said ordinance without alteration or amendment; a failure on the part of any municipality to act as herein provided shall be deemed a refusal to approve of such ordinance.

Copy to initiating municipality.

§ 5. After the passage of said ordinance required to be passed by section 4 hereof the clerk of the municipality acting thereon shall forthwith forward a certified copy of such ordinance to the municipality initiating the proceedings.

Fixing time for election.

§ 6. Within thirty days after the receipt of all the ordinances passed by the municipalities named in the initiatory ordinance, if it shall appear that said initiatory ordinance has been approved by all of the municipalities named therein, the legislative body of the municipality initiating the proceeding shall fix a day for holding a special election in each of the municipalities that have approved of said ordinance at which shall be submitted to the electors thereof the proposition of organizing such municipal water district, and shall also provide for holding a similar election within its own municipality; in case the initiatory ordinance has not been approved by all of the municipalities named therein no further proceedings shall be had, but new proceedings may be taken as provided in section 2.

Conduct of election. Ballots. Returns.

§ 7. The date fixed for such special election shall be certified to all of the municipalities which may have adopted the ordinance herein pro-

vided for and the legislative body, or bodies, of such municipalities which shall have approved said ordinance shall call and provide for the holding of a special election in their respective municipalities on the day so fixed, and such election shall be held and conducted in manner and form as required by law for the holding of special elections within such municipalities, and the cost in each municipality of holding such election shall be paid by the municipality within which it is held. The ballots used at such election shall contain the words: "Proposition to organize a municipal water district (stating the name)," and the words "Yes" and "No," so placed that a voter may indicate his wish in this connection as either in favor of, or against said proposition; such ballots shall be counted and returns thereof made by the boards selected to conduct such election in time, form and manner as required by law for the holding of special elections within municipalities and shall be canvassed and the result thereof declared and determined by the board or officers charged with such duties within the municipality holding the election.

Certificate of result.

§ 8. Within ten days after the canvass of the votes cast at such election, the board or officers canvassing the same shall certify the result thereof to the legislative body of the municipality initiating the proceedings.

Certificate to secretary of state.

§ 9. Within thirty days after the receipt of the certificates showing the result of the election held in the several municipalities, if it appears therefrom that the proposition submitted has been approved by a majority of the votes cast on said proposition in each municipality wherein such election is held, the legislative body of the municipality receiving such certificates shall certify to the secretary of state the passage of the ordinance provided for in section 2, its subsequent approval by the several municipalities approving the same in manner aforesaid and the result of the elections held as herein provided.

Certificate by secretary of state.

§ 10. Upon the receipt of the certificate mentioned in the foregoing section, the secretary of state shall, within ten days, issue his certificate reciting that the municipal water district (naming it) has been duly incorporated according to the laws of the state of California and that such district is composed of the municipalities of _____ (naming all the municipalities which have approved at the election such organization). A copy of such certificate shall be transmitted to each of the municipalities comprising such district. From and after the date of such certificate the district named therein shall be deemed incorporated as a municipal water district with all the rights, privileges and powers set forth in this act and necessarily incident thereto.

Informality of proceedings.

§ 11. No informality in any proceeding or informality in the conduct of any election, not substantially affecting adversely the legal rights of

any citizen, shall be held to invalidate the incorporation of any municipal water district, and any proceeding wherein the validity of such incorporation is denied shall be commenced within three months from the date of the certificate of incorporation, otherwise said incorporation and the legal existence of said municipal water district and all proceedings in respect thereto shall be held to be valid and in every respect legal and incontestable.

Power of water district.

§ 12. Any municipal water district incorporated as herein provided shall have power:

1. To have perpetual succession;
2. To sue and be sued, except as otherwise provided herein or by law, in all actions and proceedings in all courts and tribunals of competent jurisdiction;
3. To adopt a seal and alter it at pleasure;
4. To take by grant, purchase, gift, devise or lease, hold, use, enjoy, and to lease or dispose of real and personal property of every kind within or without the district, necessary to the full exercise of its powers;
5. To acquire, or contract to acquire, lands, rights and privileges, and construct, maintain and operate conduits, pipe lines, reservoirs, works, machinery and other property useful or necessary to store, convey, supply or otherwise make use of water for the benefit of the district;
6. To sell water under the control of the district to the municipalities comprising the same without preference to such municipalities; and it may, whenever there is a surplus above that which may be required by such municipalities, sell, or otherwise dispose of such surplus outside of the district to persons, firms, public or private corporations;
7. To have and exercise the right of eminent domain and in the manner provided by law for the condemnation of private property for public use, to take any property necessary to supply the district or any portion thereof with water, whether such property be already devoted to the same use or otherwise, and may condemn any existing waterworks or system, or any portion thereof owned by any person or corporation. In proceedings relative to the exercise of such right, the district shall have the same rights, powers and privileges as a municipal corporation;
8. To borrow money and incur indebtedness and to issue bonds or other evidences of such indebtedness; also to refund or retire any indebtedness or lien that may exist against the district or property thereof;
9. To cause taxes to be levied for the purpose of paying any obligation of the district;
10. To make contracts, to employ labor and do all acts necessary for the full exercise of the foregoing powers.

Board of directors.

§ 13. The powers herein enumerated shall, except as herein otherwise provided, be exercised by a board to be known as the board of

directors of the named municipal water district. Such board shall be composed as follows:

1. The mayor, or president of the board of trustees of each municipality comprising the district shall be, ex-officio, a member of said board.

2. Each municipality having five thousand legal and registered voters shall choose by and from the members of its legislative body one additional director and each municipality for each and every ten thousand legal and registered voters over five thousand shall choose by and from the members of its legislative body one additional director, all of whom shall serve during the pleasure of the body making the appointment; provided, that if such members do not desire to serve as such directors, said legislative body may choose any other person who is an elector and resident of such municipality. The number of legal and registered voters in each municipality on the first day of November, 1908, and every four years thereafter shall be taken as the basis for determining the representation of such municipality in the board of directors.

Meeting of board of directors.

§ 14. The legislative body of the municipality initiating the proceedings for incorporating the district shall fix a time and place for the first meeting of the board of directors, which shall be within thirty days from the date of the incorporation of the district.

Commissioners.

§ 15. At such meeting of the directors or at such time to which the proceedings may be continued, the board of directors shall choose three commissioners who shall constitute the commissioners of the named water district, but no director shall be eligible to appointment to such commission. The said commissioners shall have the power to make and enter into all contracts, appoint a secretary, who may be a member of the commission, and such other assistants and employees as may be necessary for the exercise of the powers of the district, to fix their compensation, prescribe their duties and remove any appointee at pleasure, and to generally manage its affairs, subject to such restrictions as the board of directors may impose. The commissioners shall receive such compensation as the board of directors shall determine and shall serve during its pleasure.

Directors, organization and per diem.

§ 16. The board of directors shall elect one of its number president, adopt rules of procedure and fix a time and place for holding regular meetings. The secretary of the commission shall act as secretary of the board of directors. The directors shall receive for each day's attendance at the meetings of the board their necessary expenses of attending the meeting and shall receive no other compensation.

Commissioners, organization. Funds of district.

§ 17. The commissioners shall elect one of its members president, who shall sign all contracts on behalf of the district and perform such other duties as may be imposed by the commissioners or the board of direc-

tors. They shall appoint an auditor, who shall not be a member of the board of directors, and who shall be charged with the duty of installing and maintaining a system of auditing and accounting that shall completely and at all times show the financial condition of the district. He shall draw warrants to pay demands made against the district when such demands have been first approved by at least two of the commissioners. The commissioners shall also designate a depository or depositaries to have the custody of the funds of the district, all of which depositaries shall give security sufficient to secure the district against possible loss, and who shall pay the warrants drawn by the auditor for demands against the district under such rules as the directors may prescribe.

Bonded indebtedness.

§ 18. Whenever the board of directors deem it necessary for the district to incur a bonded indebtedness it shall, by resolution, so declare and state the purpose for which the proposed debt is to be incurred and the amount thereof, and shall direct the commissioners to take, or cause to be taken, such proceedings as may be necessary to incur such debt and in the manner herein provided.

Duty of commissioners Fix date of election. Notice of.

§ 19. The commissioners shall adopt a resolution reciting the adoption of the resolution mentioned in the foregoing section, state the proposition to be submitted to the electors, the amount of debt proposed to be incurred, the maximum term the bonds proposed to be issued shall run before maturity, which shall not exceed forty years, and the maximum rate of interest to be paid, which shall not exceed five per cent per annum.

They shall fix a date upon which an election shall be held for the purpose of authorizing said bonded indebtedness to be incurred, and shall transmit a certified copy of the resolution fixing such date to the officers or board having charge of the conduct of elections of each municipality comprising the district. It shall be the duty of such board or officers in each municipality to provide for holding such special election on the day so fixed and in the manner and form as special elections are held and conducted within the municipality.

Such board or officers shall give notice of the holding of such election, which notice shall contain the resolution adopted by the commissioners of the water district, the location of polling places and the names of the officers selected to conduct the election, which shall consist of one judge, one inspector and two clerks. Such notice shall be published for two weeks in a newspaper published in each municipality, which paper shall be designated by the commissioners of the water district, or if there is no newspaper printed in any municipality, then by posting such notice in three public places therein. All the expenses of holding such election shall be borne by the district and shall be paid or credited to each city upon the filing of a verified claim therefor with the secretary of the commission. The returns of such election shall be

made, the votes canvassed and the results thereof ascertained and declared as in case of other special elections within such municipalities. The board, or officers, declaring the results of such election shall certify such result to the commissioners of the water district. No irregularities or informalities in conducting such election shall invalidate the same, if the election shall have otherwise been fairly conducted. In all respects not otherwise provided for herein said election shall be called, managed and directed as is by law provided for special elections in the municipality in which such election is to be held.

Form of bonds.

§ 20. If from such returns it appears that more than two-thirds of the votes cast at such election were in favor of and assented to the incurring of such indebtedness, then the commissioners may, by resolution, at such time or times as they may deem proper, provide for the form of such bonds and for the issuance of any part thereof, as may sell or dispose of the bonds so issued at such times or in such manner as they may deem to be to the public interest.

Status of bonds.

§ 21. Any bonds issued by any district are hereby given the same force, value and use as bonds issued by any municipality and shall be exempt from all taxation within the state of California.

Power to construct works.

§ 22. The commissioners shall have power to construct works across any stream of water, watercourse, street, avenue, highway, railway, canal, ditch, or flume which the route of said works may intersect or cross, provided such works are constructed in such manner as to afford security for life and property, and said commissioners shall restore the crossings and intersections to their former state as near as may be, or in a manner not to have impaired unnecessarily their usefulness. Every company whose right of way shall be intersected or crossed by said works shall unite with said commissioners in forming said intersections and crossings and grant the rights therefor. The right of way is hereby given, dedicated and set apart to locate, construct and maintain said works over and through any of the lands which are now or may be the property of this state and to have the same rights and privileges appertaining thereto as have been or may be granted to the municipalities within the state.

Control of distributing systems.

§ 23. The commissioners shall have no supervision or control of any of the distributing systems of the several municipalities, but the distribution of water in said municipalities, the fixing of rates and collecting of charges therefor shall be under the exclusive supervision and control of each such municipality, and the control of the district shall end with the delivery of water to the several municipalities at the point of delivery by said district; provided, that until a municipality shall

acquire a distributing system the district may own and lease the same to the municipality upon such terms as may be mutually agreed upon.

Estimate of cost of organization.

§ 24. Immediately after the organization of the board an estimate may be prepared of the probable amount of water that will be used by the several municipalities comprising said district which estimate shall be based upon the population of said municipalities, and thereafter the board may, in lieu of the other methods of procuring funds herein provided, notify the several municipalities of the estimated probable cost of the organization and conduct of such district, exclusive of the purchase of lands and the construction of works, canals and reservoirs, and the proportionate amount payable from each of such cities, whereupon each of such municipalities shall be required to contribute to said district its proportionate amount of the cost of organization of said district; provided that the sums so paid by each of such municipalities shall be credited to the municipality making the payment and the same deducted from the charge for water first delivered to said municipality as herein provided.

Water rates.

§ 25. The commissioners, in the furnishing of water to any municipality, shall fix such rate as will pay the operating expenses of the district, provide for repairs and depreciation of works owned or operated by it, pay the interest on any bonded debt, and, so far as possible, provide a sinking or other fund for the payment of the principal of such debt as it may become due; it being the intention of this section to require the district to pay the interest and principal of its bonded debt from the revenues of the district.

Tax to cover bonded debt.

§ 26. If, from any cause, the revenues of the district shall be inadequate to pay the principal or interest on any bonded debt as it becomes due, then the board of directors may cause a tax to be levied for that purpose as herein provided.

Tax rate to be levied.

§ 27. That board of directors shall require a report from the several municipalities forming the district, showing the amount of the assessment-roll of each such municipality for the current fiscal year. The board of directors shall determine the amount necessary to be raised by taxation, and shall apportion such amount among the several municipalities constituting the district according to the ratio which the value of all property assessed in each municipality bears to the total value of all property assessed in all such municipalities and shall fix a rate of tax to be levied which will raise the amount of money required by the district. The commissioners shall thereupon, and within a reasonable time previous to the time when such municipality is required by law governing such municipality to fix its tax rate, certify to the taxing

body of each municipality the rate so fixed with a direction that at the time and in the manner required by law for the levying of taxes for municipal purposes, such municipality shall levy and collect a tax, in addition to such other tax as may be levied by such municipality, at the rate so fixed and determined, and it is made the duty of the officer or body having authority to levy taxes within such municipalities to levy the tax so required. And it shall be the duty of all municipal officers charged with the duty of collecting taxes, to collect such tax in time, form and manner as municipal taxes are collected and when collected, to pay the same to the district ordering its levy and collection. Such tax shall be a lien on all property within the municipalities comprising the district and of the same force and effect as other liens for taxes, and its collection may be enforced by the same means as provided for the enforcement of liens for state and municipal taxes.

Exclusion of municipality.

§ 28. Any municipality which may have become a part of said water district, as hereinbefore provided, may be excluded therefrom upon request of a majority of the electors of said municipality expressed in a special election called for that purpose by the legislative body of said municipality in accordance with the provisions herein, so far as the same are applicable for the holding of special elections; provided, that if any objection is made to said exclusion by an ordinance of the legislative body of any of the other municipalities comprising said district, which said ordinance if it is passed must be passed within ten days after receiving from the legislative body of the municipality proposing to withdraw from the water district a certified copy of resolution or ordinance of intention to withdraw, then the commissioners of said district shall call a special election, as hereinbefore provided, for the purpose of submitting to the electors of the various municipalities the question whether said municipality may be excluded from said district. The commissioners shall ascertain the result of said election as certified by the proper officer or body of each of the municipalities comprising said district and voting thereat, and if a majority of all votes cast in the district shall be in favor of the exclusion of said municipality they shall certify the same and enter the result upon the minutes of the commissioners and from and after the date of such entry such municipality shall be excluded from the district, but such exclusion shall not operate to release it from any liability for the payment of any bonded debt incurred while it was a part of such district.

Inclusion of municipality.

§ 29. Whenever a petition is presented to the commissioners from any municipality asking that said municipality be made a part of said district and become subject to the privileges and provisions of this act, said commissioners may, in their discretion, pass a resolution authorizing the inclusion of said municipality, notice of which shall be mailed to the proper officer of each of the municipalities included in the district and if no objection is made thereto by the legislative body of any

municipality then comprising said district within thirty days after the receipt of such notice then the legislative body of said municipality so petitioning to be included in said district shall call a special election as provided herein for the purpose of submitting to the electors of said municipality the question whether or not said municipality shall join and become a part of said district. If a majority of the votes cast at the election shall be in favor of the municipality joining and becoming a part of said district the same shall be certified to the commissioners of the district, who in turn shall certify the same to the secretary of state and thereafter said municipality shall be a part of said district and entitled to all the privileges and subject to all the obligations of this act.

Meaning of certain words.

§ 30. Nothing in this act shall be construed as repealing or in any wise modifying the provisions of any other act relating to water or the supply of water to, or the acquisition thereof by municipalities within this state. The term "municipality" as used in this act shall include a consolidated city and county, city or town, and the word "district" shall apply, unless otherwise expressed or used, to a water district formed under the provisions of this act, and the word "board" and the words "board of directors" shall apply to the board of directors of such district, and the word "commissioners" shall apply to the commissioners of such water district, and the commissioners shall be regarded as a board of commissioners.

§ 31. This act shall take effect from and after its passage and approval.

TITLE 335.

NAPA CITY.

ACT 2391.

Act to incorporate. [Stats. 1871-72, p. 542.]

Reincorporating under statute of 1878-74, p. 140, which must operate as a repeal of the earlier statute.

ACT 2392.

Reincorporating. [Stats. 1873-74, p. 140.]

Amended 1875-76, p. 550; 1877-78, p. 1011. Superseded by charter, 1893, p. 641.

ACT 2393.

Water supply for. [Stats. 1875-76, p. 595.]

Superseded by charter, 1893, p. 641.

ACT 2393a.

Charter of Napa. [Stats. 1893, p. 641.]

Amended 1903, p. 689.

Citations. App. 8/53.

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TITLE 336.
NAPA COUNTY.

ACT 2394.

Legalizing certain notarial acknowledgments. [Stats. 1875-76, p. 572.]
This act legalized acknowledgments taken by one N. M. Bonham.

ACT 2395.

In reference to county assessor. [Stats. 1871-72, p. 437.]
Superseded by County Government Act, 1897, p. 582, § 180.

ACT 2396.

Providing for the building and furnishing of a courthouse and jail in.
[Stats. 1877-78, p. 569.]

ACT 2397.

Act defining northern boundary of. [Stats. 1871-72, p. 305.]

ACT 2398.

Dispensing with copies of great register in certain elections in. [Stats.
1873-74, p. 515.]
"Repealed by Political Code, §§ 1094-1097 and 1115, 1116, as amended in
1899."—Code Commissioners' Note.

ACT 2399.

Estrays in. [Stats. 1871-72, p. 434.]
Repealed 1873-74, p. 705.

ACT 2400.

Applying provisions of act of 1873-74, p. 50, to. [Stats. 1873-74, p.
705.]
Repealed 1897, p. 198.
This act made the act relating to the trespassing of animals applicable to
Napa County.

ACT 2401.

Supervisors to transfer a certain fund. [Stats. 1877-78, p. 550.]
Superseded by subd. 18, § 25, County Government Act, 1897, p. 468.
This act authorized the transfer of the swamp land fund into the general
fund.

ACT 2402.

Salaries and compensation of certain officers. [Stats. 1873-74, p. 392.]
Amended 1877-78, p. 551. Repealed by County Government Act, 1897,
p. 582, § 180.

ACT 2403.

Concerning persons under sentence of imprisonment in jail of. [Stats.
1871-72, p. 791.]
Superseded by subd. 29, § 25, County Government Act, 1897, p. 465.

This act authorized the supervisors to put the prisoners to work upon the public works.

ACT 2404.

To provide for the transcribing and transferring certain records in Sonoma and Solano counties to the county of Napa. [Stats. 1858, p. 65.]

ACT 2405.

Transcribing records of. [Stats. 1863–64, p. 500.]

This was an act for the better preservation of certain records in Napa County.

ACT 2406.

To provide for the establishment and maintenance of roads in. [Stats. 1877–78, p. 1024.]

Repealed 1883, p. 5, a. X, § 2.

ACT 2407.

Board of supervisors, reorganizing. [Stats. 1873–74, p. 158.]

Supplemented 1873–74, p. 329. Repealed by County Government Act, 1897, p. 455, §§ 14–18.

ACT 2408.

Fixing fees of county surveyor. [Stats. 1873–74, p. 108.]

ACT 2409.

Title to certain lands in, quieting. [Stats. 1873–74, p. 329.]

This act related to certain lands in the Suscol rancho.

TITLE 337.**NAPA LADIES SEMINARY.****ACT 2414.**

Authorizing the granting of diplomas by. [Stats. 1871–72, p. 801.]

TITLE 338.**NAPA RIVER.****ACT 2419.**

Authorizing construction of bridge across, at Napa City. [Stats. 1871–72, p. 792.]

Repealed 1875–76, p. 855.

TITLE 339.**NATIONAL GUARD.****ACT 2424.**

To define the duties of inspectors of rifle practice. [Stats. 1877–78, p. 758.]

"Probably repealed by Political Code, § 2008, adopted 1897."—Code Commissioners' Note.

ACT 2425.

To provide for independent and unattached companies of, and to provide for the manner of making allowances for the use and support of such companies. [Stats. 1901, p. 110.]

This act appears in full in Political Code, Appendix, tit. "National Guard."

ACT 2426.

To establish a camp of instruction for the, and to authorize the acquisition by donation of a site for the same. [Stats. 1899, p. 65.]

ACT 2427.

Providing that all encampments of the national guard shall be held at the state camp of instruction unless otherwise ordered. [Stats. 1899, p. 148.]

ACT 2428.

Authorizing the acquisition by donation of a site or sites for camps of instruction for the national guard of the state and to improve the same. [Stats. 1893, p. 123.]

Probably repealed 1899, p. 65.

ACT 2429.

Regarding organizations, officers, and members of the national guard who entered the United States volunteer service in the Spanish-American war; their privileges, and exemptions, and retirements, and providing for the return to such national guard of such organizations, officers and members. [Stats. 1899, p. 158.]

ACT 2430.

An act making an appropriation to pay the claims for services, subsistence, supplies, transportation, and other expenses of the national guard of California and the University Cadets, called into service by order of the governor in the months of April, May and June, 1906. [Approved June 14, 1906. Stats. 1906, p. 41.]

This act appropriated \$400,000 for the purposes indicated.

ACT 2431.

An act to provide a site for an armory for the national guard in the city and county of San Francisco and making available and re-appropriating certain moneys for the purchase of said site and the erection, equipment, completion and furnishing of said armory. [Approved March 22, 1909. Stats. 1909, p. 640.]

ACT 2432.

An act making an appropriation for the expenses of the national guard in case of insurrection, invasion, tumult, riot, or imminent danger thereof. [Approved April 12, 1909. Stats. 1909, p. 850.]

This act appropriated \$100,000 for the purposes indicated.

ACT 2433.

An act to provide for the building, equipping and furnishing of an armory to be used for the national guard and national guard purposes, in the city of Los Angeles, and to make an appropriation for the same. [Approved March 25, 1909. Stats. 1909, p. 718.]

This act appropriated \$100,000 for the purposes indicated.

TITLE 340.**NATURALIZATION.****ACT 2434.**

Naturalization, provision for indexing names of person who have declared their intention to become or who have become citizens of the United States. [Stats. 1871-72, p. 80.]

Section 1 probably in force; § 2 superseded by the fee bill of 1895, p. 267.

TITLE 341.**NAVAL BATTALION.****ACT 2439.**

To establish a naval battalion to be attached to the national guard. [Stats. 1891, p. 258.]

Repealed 1893, p. 63.

ACT 2440.

To establish a naval battalion to be attached to the national guard. [Stats. 1893, p. 62.]

Modified, if not superseded, by Political Code, § 1962, as amended 1901, p. 583. See present § 2111.

TITLE 342.**NAVIGATION.****ACT 2445.**

Buoys and beacons, protection of. [Stats. 1873-74, p. 619.]

Codified in part by § 609, Penal Code: See post, Act 4354.

ACT 2446.

Submarine sites for lighthouses, and other aids to navigation. [Stats. 1873-74, p. 621.]

This act authorized the governor to convey sites to the United States for the above purpose.

TITLE 343.**NEGLIGENCE.****ACT 2451.**

Requiring compensation for causing death by wrongful act, neglect, or default. [Stats. 1862, p. 447.]

Citations. Cal. 42/216, 217; 50/612; 84/521; 115/391.

Superseded by Code of Civil Procedure, §§ 376, 377.

TITLE 344.
NEUCES CREEK.

ACT 2456.

To declare Neuces Creek in Contra Costa County navigable. [Stats 1858, p. 127.]

Incorporated in Political Code, § 2849.

TITLE 345.
NEVADA CITY.

ACT 2461.

Incorporating. [Stats. 1877-78, p. 221.]

TITLE 346.
NEVADA COUNTY.

ACT 2466.

Fees and mileage in criminal cases in. [Stats. 1875-76, p. 404.]

Repealed by fee bill of 1895, p. 267, and County Government Acts 1897, p. 524, § 173.

ACT 2467.

Lawful fences in. [Stats. 1863-64, p. 318.]

This act extended the act of 1855 concerning lawful fences to Nevada County.

ACT 2468.

Regulating salaries of officers of. [Stats. 1877-78, p. 551.]

Repealed by County Government Acts, 1897, p. 524, § 173.

ACT 2469.

To remedy defects in certain county records. [Stats. 1871-72, p. 377.]

This act validated certain records in Nevada County which the president of the board had omitted to sign.

ACT 2470.

Indexing certain records of. [Stats. 1873-74, p. 280.]

This act provided for the manner of indexing certain deeds.

ACT 2471.

Public roads in. [Stats. 1871-72, p. 448.]

Amended 1873-74, p. 298; 1875-76, p. 428; 1877-78, pp. 279, 364. Repealed by statute of 1888, p. 5, c. X, § 2.

This act provided for the location, construction, and maintenance of public roads in Nevada County.

ACT 2472.

Nevada school district, board of education of, establishing and defining powers and duties of. [Stats. 1873-74, p. 614.]

ACT 2473.

Quarterly meetings of supervisors. [Stats. 1873-74, p. 239.]
Repealed by County Government Acts, 1897, p. 452.

ACT 2474.

Authorizing supervisors to remove bodies of certain deceased persons.
[Stats. 1877-78, p. 104.]

TITLE 347.**NEW REPUBLIC.****ACT 2479.**

Name changed to Santa Rita. [Stats. 1873-74, p. 823.]

TITLE 348.**NEW SAN PEDRO.****ACT 2484.**

To change the name of New San Pedro to Wilmington. [Stats. 1863,
p. 328.]

NORMAL SCHOOLS.

See "Schools."

TITLE 349.**NORTH BEACH AND MISSION RAILROAD COMPANY.****ACT 2489.**

Granting certain privileges to. [Stats. 1871-72, p. 761.]
See Acts 3260, 3261, post.

ACT 2490.

Granting certain privileges to. [Stats. 1877-78, p. 278.]

TITLE 350.**NORTH SAN FRANCISCO HOMESTEAD AND RAILROAD ASSOCIATION.****ACT 2495.**

Authorizing sale and conveyance of lands in San Francisco to. [Stats.
1863-64, p. 482.]

This act authorized the commissioners of swamp and overflowed lands to convey certain overflowed land to this corporation.

TITLE 351.**NOTARIES.****ACT 2500.**

Fresno, Tulare, and Humboldt counties, additional notaries for. [Stats.
1873-74, p. 20.]

Repealed by Political Code, § 791.
See Act 1564, ante.

ACT 2501.

Additional for certain counties. [Stats. 1873-74, p. 30.]

Repealed by Political Code, § 791.

This act provided for additional notaries in the counties of Santa Clara, Napa, Santa Barbara, San Luis Obispo, and Sonoma.

ACT 2502.

Defining duties of. [Stats. 1871-72, p. 792.]

Supplementing act of April 25, 1862. Repealed by Political Code, § 791.

TITLE 352.**NOVATO CREEK.****ACT 2505.**

Declaring Novato Creek or estuary in Marin County navigable. [Stats. 1860, p. 257.]

Incorporated in Political Code, § 2349.

TITLE 353.**NUECES CREEK.****ACT 2506.**

Declared navigable. [Stats. 1858, p. 127.]

Incorporated in Political Code, § 2349.

TITLE 354.**NUISANCES.****ACT 2506a.**

An act declaring property infested with certain rodents to be a public nuisance; requiring owners, occupants, and persons having possession of or dominion over such property to endeavor to exterminate and destroy such rodents; providing for the inspection of property by boards of health and health officers; authorizing boards of supervisors and other governing bodies to purchase materials and employ inspectors to prosecute such work of extermination; authorizing state and local health authorities to prosecute such work in certain cases; providing for the payment of the expense thereof; making the amount of such expense a lien on the property; providing for the collection of such amount by foreclosure of such lien; and declaring any violation of the provisions thereof to be a misdemeanor.

[Approved March 13, 1909. Stats. 1909, p. 311.]

Duty of persons to exterminate rodents.

§ 1. It shall be and is hereby declared to be the duty of every person, firm, copartnership, company and corporation, owning, leasing, occupying, possessing or having charge of or dominion over, any land, place, building, structure, wharf, pier, dock, vessel or water craft, which is

infested with rats, mice, gophers or ground squirrels, or as soon as the presence of the same shall come to his, their, or its knowledge, at once to proceed and to continue in good faith to endeavor to exterminate and destroy such rodents, by poisoning, trapping, and other appropriate means.

State board of health, authority of.

§ 2. The state board of health and inspectors appointed by such board, and local health officers and inspectors appointed for the purpose, as hereinafter provided, shall have authority and shall be permitted to enter into and upon any and all lands, places, buildings, structures, wharves, piers, docks, vessels and water craft, for the purpose of ascertaining whether the same are infested with such rodents and whether the requirements of this act as to the extermination and destruction thereof are being complied with; provided, however, that no building occupied as a dwelling, hotel or rooming-house, shall be entered for such purpose except between the hours of 9 o'clock in the forenoon and 5 o'clock in the afternoon of any day.

Supervisors may appropriate moneys.

§ 3. The board of supervisors of each county and the city council or other governing body of each city and county, city and town, whenever it may by resolution determine that it is necessary for the preservation of the public health or to prevent the spread of contagious or infectious disease, communicable to mankind, or when such board shall so determine that it is necessary to prevent great and irreparable damage to crops or other property, may appropriate money for the purchase of, and may purchase, poison, traps and other materials for the purpose of exterminating and destroying such rodents, in such county, city and county, city or town, and may employ and pay inspectors, who shall have authority to and shall prosecute such work of extermination and destruction, under the direction of such board, or of the local health officer, or board of health, on both private and public property, in such county, city and county, city or town.

Refusal to exterminate. Expense of extermination. Sale of Property.

§ 4. Whenever any person, firm, copartnership, company or corporation, owning, leasing, occupying, possessing or having charge of or dominion over, any land, place, building, structure, wharf, pier, dock, vessel or water craft, which is infested with such rodents, shall fail, neglect or refuse to proceed and to continue to endeavor to exterminate and destroy such rodents, as herein required, it shall be the duty of the state board of health, its inspectors and the local board of health and health officer, at once to cause such nuisance to be abated by exterminating and destroying such rodents. The expense thereof shall be a charge against the county, city and county, city or town, wherein the work is done, and the board of supervisors or other governing body shall allow and pay the same. Thereupon, the clerk of such board shall file in the office of the county recorder a notice of such payment, claiming a lien on such prop-

erty for the amount of such payment. Any and all sums so paid by such county, city and county, city or town, shall be a lien on the property on which said nuisance shall have been abated, and may be recovered in an action against such property, which action to foreclose such lien shall be brought, within ninety days after such payment, and be prosecuted by the district, city or town attorney, in the name of such county, city and county, city or town, and for its benefit. When the property is sold, enough of the proceeds shall be paid into the treasury of such county, city and county, city or town, to satisfy such lien and the costs, and the overplus, if any there be, shall be paid to the owner of the property, if known, and if not known shall be paid into court for the use of such owner when ascertained. When it appears from the complaint in such action that the property on which such lien is to be foreclosed is likely to be removed from the jurisdiction of the court, the court may appoint a receiver to take possession of the property and hold the same while the action may be pending or until the defendant shall execute and file a bond, with sufficient sureties, conditioned for the payment of any judgment that may be recovered against him in the action and all costs.

Penalty.

§ 5. Any violation of the provisions of this act shall be deemed a misdemeanor and shall be punishable as such.

ACT 2507.

To prevent certain public nuisances. [Stats. 1852, p. 100.]

Superseded by Penal Code, § 874.

ACT 2508.

Authorizing and directing district attorneys to bring suits to abate public nuisances. [Stats. 1899, p. 103.]

Citations. Cal. 147/380; 150/197.

Superseded by § 4156 of Political Code: See Penal Code, § 878a, and *P. v. McCue*, 83 Cal. Dec. 45.

TITLE 355.

NURSING.

ACT 2508a.

An act to promote the better education of practitioners of nursing the sick in the state of California, to provide for the issuance of certificates of registration as a registered nurse to qualified applicants by the board of regents of the University of California, and to provide penalties for violation hereof.

[Approved March 20, 1905. Stats. 1905, p. 533.]

§ 1. Commencing in the month of July, 1905, and at least semi-annually thereafter, the board of regents of the University of California shall hold, or cause to be held, such examination or examinations as they

may deem proper to test the qualifications and fitness of applicants for certification and registration as registered nurses within the state of California. Such examinations shall be practical in character, and a reasonable notice designating the time and place thereof must be given by publication in at least two daily papers published within the state of California.

§ 2. All applicants for examination must furnish satisfactory evidence of good moral character and of having complied with the provisions of this act relative to qualifications; and any examiner may inquire of any applicant for examination concerning his or her character, qualifications or experience, and may take testimony in regard thereto, under oath, which he is hereby empowered to administer.

§ 3. All persons satisfactorily passing such examinations shall be granted by the board of regents of the University of California, a certificate stating that he or she is a registered nurse within the state of California, and shall thereafter be known and styled as a registered nurse. The secretary of the said board of regents shall keep in his office a book showing the names of all persons to whom certificates as registered nurses have been granted. Graduates of all training schools for nurses which shall have been approved by the said board of regents may be certified as registered nurses, without examination, at any time within three years after the passage of this act, upon payment of the fee prescribed in section four hereof.

§ 4. Every person applying for examination, or for registration as a registered nurse, shall pay to the secretary of the said board of regents a fee of five dollars, which shall in no case be refunded. A certificate of registration shall be void three years after the date thereof, but a new certificate may be issued to the holder upon the payment of a fee of one dollar. All expenses incurred in carrying out the provisions of this act shall be paid from the fees and fines collected hereunder, and the surplus receipts, if any, shall be used to provide for education in nursing.

§ 5. (I) No person shall be eligible for examination or for registration as a registered nurse who shall not furnish satisfactory evidence of having graduated, from a nurses' training school: (a) that is attached to a reputable hospital; (b) that gives a general training and a systematic, theoretical and practical course of study covering a period of at least two years; (c) and that has been approved by the board of regents of the University of California.

(II) After January 1, 1908, no person shall be eligible for examination or for registration as a registered nurse, unless:

(a) He or she is at least twenty-one years of age;

(b) He or she is a graduate of a training school approved by the board of regents of the University of California, and after said date no school shall be approved or remain on the list of schools approved by said

board of regents, unless it is attached to a general hospital, and its course requires a three years' training in that hospital; provided, that a training school approved as aforesaid may graduate students who have spent a year therein subsequent to completing a two years' course in the training school attached to a special hospital.

(III) After January 1, 1910, no person shall be eligible for examination or for registration unless he or she furnishes satisfactory evidence of having substantially completed the course of studies pursued in the grammar schools of the state of California, or an equivalent course.

§ 6. The board of regents of the University of California shall have power to revoke any certificate of registration for incompetency, dishonesty, intemperance, immorality or unprofessional conduct, after a full and fair investigation of the charges preferred against the accused. Prior to such hearing a written copy of such charges shall be furnished to the accused, who shall have at least twenty days' notice in writing of the time and place where such charge will be heard and determined.

§ 7. Any person procuring registration under this act, by false representation or who shall refuse to surrender a certificate of registration which has been revoked as set out in this act, or who shall use the title of "registered nurse," or append the letters "R. N." or any other words, letters or figures to indicate that the person using the same is a registered nurse, unless such person shall be lawfully entitled so to do, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than fifty dollars nor more than five hundred dollars, or by imprisonment in the county jail for not less than five days nor more than six months, or by both such fine and imprisonment; provided, however, that nothing in this act contained shall be construed to prohibit or affect that gratuitous nursing of the sick, nor to nursing the sick for hire by a person who does not in any way assume to be a registered nurse.

TITLE 356.

OAKLAND.

ACT 2509.

Charter of. [Stats. 1889, p. 513.]

Amended 1895, p. 858; 1907, p. 1849; 1909, p. 1820.

Citations. Cal. 99/148; 145/421, 422, 423, 425, 427.

ACT 2510.

Incorporating. [Stats. 1873-74, p. 804.]

Supplementing act of April 24, 1862. Superseded by charter of Oakland: See ante, Act 2509.

ACT 2511.

Alameda, Oakland, and Piedmont Railway Company, authorizing city council of Oakland to grant certain privileges to. [Stats. 1875-76, p. 499.]

ACT 2512.

Assessor, salary of. [Stats. 1875-76, p. 148.]

Superseded by the charter of Oakland, 1889, pp. 531, 533, §§ 40 and 44:
See Act 2509.

ACT 2513.

Providing compensation for the township assessor of the township of.
[Stats. 1877-78, p. 557.]

ACT 2514.

Common council, appropriation of moneys by to certain benevolent societies. [Stats. 1877-78, p. 252.]

Superseded by charter of Oakland, 1889, p. 513, § 81, subd. 46.

This act authorized the payment from fines collected in the police court to the Oakland Benevolent Society and the Ladies' Relief Society.

ACT 2515.

To issue and sell bonds of, and with proceeds to pay and cancel certain other bonds. [Stats. 1873-74, p. 845.]

ACT 2516.

To provide for the liquidation of the floating indebtedness of the city of Oakland and to prevent the incurring of further debts. [Stats. 1873-74, p. 799.]

This act authorized the issuance of bonds not exceeding \$100,000.

ACT 2517.

To provide funds for. [Stats. 1871-72, p. 590.]

This act authorized the city council to issue bonds.

ACT 2518.

Authorizing the construction of a bridge across the estuary of San Antonio, between Eighth Street and East Ninth Street. [Stats. 1875-76, p. 653.]

ACT 2519.

Elections in, time for holding. [Stats. 1875-76, p. 64.]

Superseded by the charter of Oakland, 1889, p. 514. See Act 2509.

ACT 2520.

Gas and water pipes in, laying of. [Stats. 1875-76, p. 312.]

See Charter of Oakland, § 81, subd. 26; also §§ 70, 71, ante, Act 2509.

ACT 2521.

Oakland Harbor, to facilitate the construction of a canal for. [Stats. 1875-76, p. 862.]

Amended 1877-78, p. 113.

ACT 2522.

Ratifying an ordinance of. [Stats. 1877-78, p. 71.]

This ordinance abandoned certain streets.

ACT 2523.

Legalizing the ordinances of Oakland, in respect to the penalties therein.
[Stats. 1871-72, p. 75.]

ACT 2524.

An act granting certain lands and salt marsh and tide lands of the state of California, to the city of Oakland. [Approved March 22, 1909. Stats. 1909, p. 665.]

See, also, act of 1873-74, p. 132, granting certain salt marsh and tide lands to.

ACT 2525.

Superintendent of public schools, salary of, act fixing and also limiting powers of board of education. [Stats. 1875-76, p. 169.]

Amended 1877-78, p. 785. Superseded by the charter of Oakland, 1889, p. 514: See Act 2509.

ACT 2526.

Authorizing construction of main sewers. [Stats. 1875-76, p. 896.]

Probably superseded by charter of Oakland, 1889, p. 514. See Act 2509.

ACT 2527.

Streets in, opening. [Stats. 1875-76, p. 468.]

Repealed 1877-78, p. 619.

ACT 2528.

Opening of streets in. [Stats. 1877-78, p. 614.]

Probably superseded by the Vrooman Act, 1885, p. 147.

ACT 2529.

To district the city into wards. [Stats. 1875-76, p. 62.]

Amended 1877-78, p. 843. Superseded by § 6 of art. I of the charter of Oakland, 1889, p. 519.

ACT 2530.

Authorizing to obtain a supply of water. [Stats. 1873-74, p. 892.]

Superseded by charter, 1889, p. 529, § 31, subd. 41.

ACT 2531.

Enabling city to acquire and maintain waterworks. [Stats. 1877-78, p. 427.]

Superseded by charter, 1889, p. 529, § 31, subd. 41.

ACT 2532.

An act authorizing and empowering the directors of the State Agricultural Society to hold state industrial and agricultural fairs at the city of Oakland, county of Alameda, state of California, and making an appropriation therefor. [Approved April 12, 1909. Stats. 1909, p. 851.]

TITLE 356a.
OCEAN PARK.

A city of the sixth class.

See California Blue Book, 1907, p. 304.

TITLE 357.
ODD FELLOWS.

ACT 2536.

Amending act relating to corporations. [Stats. 1853, p. 274.]

Repealed by § 288, Civil Code.

This act authorized ten or more citizens to assume corporate powers for the purpose of erecting Odd Fellows' halls.

ACT 2537.

Independent Order of Odd Fellows, authorizing trustees to lease a lot in San Francisco. [Stats. 1877-78, p. 561.]

TITLE 358.
OFFICERS.

ACT 2542.

Educational offices, making women eligible to. [Stats. 1873-74, p. 356.]

Citations. Cal. 71/121; 128/618, 619.

This act appears in full in Political Code, Appendix, tit. "Officers."

ACT 2543.

To secure to native-born and naturalized citizens the exclusive right to be employed in the public service. [Stats. 1901, p. 589.]

See Act 126, ante.

ACT 2544.

To provide for the payment by the state or counties, or cities, or cities and counties, of the premium or charge on official bonds when given by surety companies. [Stats. 1903, p. 476.]

This act appears in full in Political Code, Appendix, tit. "Bonds."

ACT 2545.

Civil officers, removal of for violation of official duty. [Stats. 1873-74, p. 911.]

"Repealed by the constitution of 1879 and the County Government Acts. (Fraser v. Alexander, 75 Cal. 147.)"—Code Commissioners' Note.

Citations. Cal. 52/623; 75/148, 150, 151, 154; 97/381.

ACT 2546.

Concerning confirming and ratifying leases and other contracts made by any officer or boards of officers of the state. [Stats. 1901, p. 601.]

ACT 2547.

To protect candidates for certain public offices, to prohibit certain acts by such candidates, and to provide a punishment for infractions of this law. [Stats. 1897, p. 53.]

Codified by § 55a of Penal Code. See notes to § 55a, Penal Code.

This act prohibited the pledging of candidates or the giving of pledges by candidates.

ACT 2548.

Relating to the intoxication of officers. [Stats. 1880, p. 77.]

This act appears in full in the Penal Code, Appendix, p. 885.

ACT 2549.

To protect the wages of labor and the salaries and fees of subordinate officers. [Stats. 1871-72, p. 951.]

Codified by §§ 74a and 653d of Penal Code 1905: See notes to §§ 74a, 653d, Penal Code.

This act made it a felony to receive or retain a portion of the wages of laborers employed upon public works or the fees or salaries allowed to subordinate officers.

ACT 2550.

Concerning officers. [Stats. 1861, p. 139.]

This act related to the signature of ex officio officers.

Superseded by § 1081, Pol. Code.

ACT 2551.

An act forbidding the employment of the inmates of state institutions in the manufacture, or production of articles, for the use of state officers, or the officers and employees of state institutions.

[Approved March 19, 1903. Stats. 1903, p. 210.]

§ 1. No inmate of any state institution shall be employed in the manufacture or production, of any article, intended for the private and personal use of any state officer, or officer, or employee, of any state institution; provided, that this act shall not prevent repairing of any kind nor the employment of such inmates in household or domestic work connected with such institution.

§ 2. All acts or parts of acts in conflict with this act, are hereby repealed.

§ 3. This act shall take effect on and after its passage.

ACT 2552.

An act to execute and carry into effect section 3 of article 20 of the constitution of the state of California.

[Approved March 23, 1901. Stats. 1901, p. 552.]

§ 1. Whenever any person within this state shall hold any office or position of public trust and shall have taken the oath of office prescribed

by section 3 of article 20 of the state constitution upon entering upon such office, or shall, after his election or appointment, have offered to take such oath, it shall be unlawful to remove such person from such office or position of public trust because such person has not complied with some or any provision of any law, charter, or regulation prescribing an additional test or qualification for such office or position of public trust, and any person who is removed or threatened with removal from any office or position of public trust under any pretense or device whatever, if the real reason be because of noncompliance with provisions requiring such additional test or qualification, shall be entitled to restrain such unlawful removal or to enforce restoration by process of injunction, both prohibitory and mandatory.

§ 2. It shall be unlawful for any person having the power of removal from office of any public official, state or local, to remove or threaten to remove such official from his office because such official in the appointment of any person to a position of public trust under such last-named official, refuses to require any test or additional qualification than the oath referred to in section one of this act as a condition of permitting such appointee to enter upon or remain in such position of public trust; and such person making or threatening such unlawful removal from office may be restrained by prohibitory and mandatory injunction from effecting such removal under any pretense or device if the real reason of such removal or threatened removal be or was such as herein declared unlawful.

§ 3. This act shall take effect immediately.

ACT 2553.

An act providing for vacations for certain employees of the state.

[Approved March 15, 1909. Stats. 1909, p. 383.]

§ 1. Each employee regularly employed at the state hospitals and each employee regularly employed in the service of any of the state commissions, or state boards or in the state printing office who shall have been employed for a period of not less than six months shall be allowed, during each year of his service, a vacation of not less than fifteen days' duration; said vacation to be without loss of pay, and the time allowed for said vacation to be designated by the management of such state hospitals, and by the members of the state commissions and state boards and by the superintendent of state printing.

§ 2. This act shall take effect immediately.

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TITLE 359.

OIL.

ACT 2556.

An act to prevent injury to oil or petroleum-bearing strata or formations by the infiltration or intrusion of water therein. [Approved March 24, 1903. Stats. 1903, p. 399.]

Repealed 1909, p. 586.

ACT 2557.

An act to prevent injury to oil, gas or petroleum-bearing strata or formations by the penetration or infiltration of water therein.

[Approved March 20, 1909. Stats. 1909, p. 586.]

§ 1. It shall be the duty of the owner of any well now drilled or that may be drilled in the state of California on lands producing or containing oil, gas or petroleum, to properly case such well or wells, with metal casing in accordance with most approved methods, and to effectually shut off all water overlying or underlying the oil-bearing strata and to effectually prevent any water from penetrating such oil-bearing strata.

§ 2. It shall be the duty of the owner of any well referred to in section 1 of this act, before abandoning the same to withdraw the casing therefrom, and to securely fill such well with clay, earth or cement mortar, or other good and sufficient materials, used alone or in suitable combination, and thoroughly pack and tamp the same into such well to a point as far above the upper oil-bearing strata as the commissioner hereinafter provided for may decide shall be necessary, and while withdrawing the casing therefrom to effectually and permanently shut off and exclude all water underlying and overlying said oil-bearing strata, and to the satisfaction of the commissioner, whether any oil-bearing strata has been encountered or not.

§ 3. It shall be the duty of the owner of any well referred to in section 1 of this act, to keep a careful and accurate log of the drilling of such well, such log to show the character and depth of the formations passed through or encountered in the drilling of such well, and particularly to show the location and depth of the water-bearing strata, together with the character of the water encountered from time to time, and to show at what point such water was shut off, if at all, and if not to so state in such log, and show the depth at which oil-bearing strata is encountered, the depth and character of the same, and whether all water overlying and underlying such oil-bearing strata was successfully and permanently shut off so as to prevent the percolation or penetration into such oil-bearing strata; said record of well to be kept on file and subject to the inspection of hereinafter mentioned commissioner at any time during business hours.

§ 4. The term "owner" as herein used shall mean and include each and every person, persons, partnership, copartnership, association or corpora-

tion owning, leasing, managing, operating, drilling or possessing any well mentioned in sections 1 and 2 of this act, either as principal or principals, lessee or lessees of such principal or principals, contractor or contractors, and their and each of their employees. The term "oil-bearing strata" as herein used shall mean and include any bed, seam or stratum of rock or sand or other material which contains, includes, or yields earth oil, rock oil, or petroleum oil or natural gas or either of them.

In order to carry out the provision of sections 1 and 2 of this act, upon petition of three or more operating oil companies, within the county, it shall be the duty of the board of supervisors of said county to appoint a commissioner who shall be a practical oil man, whose term of office shall be until December 31st of the year following time of appointment or until his successor is appointed.

The duties of said commissioner shall be to see that the provisions of this act shall be enforced.

The compensation of said commissioner shall be fixed by the board of supervisors and shall be paid out of the general county fund.

Upon the filing of a complaint with said commissioner alleging the violation of any of the provisions of sections 1 or 2 of this act, it shall be the duty of the hereinbefore mentioned commissioner of the county, if so requested by the complainants, to make or cause to be made, a thorough investigation of the well in question, to determine whether or not any of the provisions of this act have been violated and for such purpose he is hereby empowered to appoint all necessary agents and assistants to conduct such examination and such agents and assistants may enter upon the premises where such well is situated and may take charge of such well for the purpose of making such investigations. If the defendant in the action shall be convicted of a violation of any of the provisions of sections 1 or 2 of this act, he shall, in addition to the penalties hereafter set forth, pay all reasonable and proper costs incident to the making of such investigations.

Any well drilled and abandoned, in violation of sections 1 or 2 of this act is hereby declared a public nuisance.

If any well, under the provision of sections 1 or 2 of this act be declared a public nuisance, it shall be the duty of commissioner of the county in which such well is situated to enter upon the premises, take possession of such well and to abate said nuisance and to take all necessary steps to prevent the percolation or penetration of water into the oil-bearing strata. He shall keep an accurate account of the expense of such work and all expenses so incurred shall be a charge against the owner of such well and a lien upon the same.

Any person violating the provisions of this act shall be guilty of a misdemeanor.

Any owner of any well referred to in sections 1 or 2 of this act, who refuses to permit the commissioner to inspect the same or who willfully hinders or delays the commissioner in the performance of his duty is guilty of a misdemeanor.

An "act" to prevent injury to oil, or petroleum-bearing strata, or formations by infiltration or intrusion of water therein approved March 24, 1903, is hereby appealed.

TITLE 360.

OLEOMARGARINE.

ACT 2561.

To prevent sale of as butter. [Stats. 1877-78, p. 535.]

"Probably repealed by 1883, p. 20; if not, it is superseded by 1895, p. 41. c. CCCLXXXI, and 1897, p. 65, c. LXXV."—Code Commissioners' Note.

ACT 2562.

To prevent the sale of as butter. [Stats. 1883, p. 20.]

"Probably repealed by 1895, p. 41. See 1897, p. 65; 1907, p. 265."—Code Commissioners' Note.

TITLE 361.

OLIVE OIL.

ACT 2567.

To regulate the sale of olive oil. [Stats. 1891, p. 46.]

Repealed 1898, p. 211.

ACT 2568.

To regulate the sale of imitation olive oil. [Stats. 1893, p. 210.]

This act appears in full in the Appendix to the Penal Code, p. 835.

TITLE 362.

OPTOMETRY.

ACT 2573.

An act to regulate the practice of optometry and for the appointment of a board of examiners in the matter of said regulation.

[Approved March 20, 1903. Stats. 1903, p. 285.]

Amended 1907, p. 68; 1909, p. 775.

§1. Any person shall be deemed to be practicing optometry within the meaning of this act who shall display a sign, or in any way advertise himself as an optician or optometrist, or who shall employ any means for the measurement of the powers of vision, or the adaption of lenses for the aid thereof, or who shall, in the sale of spectacles or eye-glasses or lenses, use in the testing of the eyes therefor, lenses other than the lenses actually sold. [Amendment approved March 25, 1909. Stats. 1909, p. 775.]

§2. It shall be unlawful for any person to engage in the practice of optometry in the state of California unless such person shall have obtained a certificate of registration from the California state board of examiners in optometry, as hereinafter provided. [Amendment approved March 25, 1909. Stats. 1909, p. 775.]

§ 3. There is hereby created a board, whose duty it shall be to carry out the purposes and enforce the provisions of this act, and shall be styled the California State Board of Examiners in Optometry. Said board shall be appointed by the governor as soon as practicable after the passage of this act, and shall consist of three persons actually engaged in the practice of optometry and residing in the state of California. Each member of said board shall hold office for a term of six years, one member of the board to retire every two years, but members shall hold office until their successors are appointed and qualified. Appointments to fill vacancies caused by death, resignation or removal, shall be made for the residue of such term by the governor. The members of said board, before entering upon their duties, shall respectively take and subscribe to the oath required to be taken by other state officers, and filed with the clerk of the county in which said member resides and said board shall have a common seal. [Amendment approved February 28, 1907, Stats. 1907, p. 64.]

§ 4. Said board shall choose at its first regular meeting, and annually thereafter, one of its members president, and one secretary thereof, who severally shall have the power during their term of office to administer oaths and take affidavits, certifying thereto under their hand and the seal of the board. Said board shall meet at least once in each year at the state capitol, and in addition thereto, whenever and wherever the president and secretary thereof shall call a meeting; a majority of said board shall at all times constitute a quorum. The secretary of said board shall keep a full record of the proceedings of said board, which records shall at all reasonable times be open to public inspection.

§ 5. Every person, before beginning to practice optometry in this state after the passage of this act, shall pass an examination before said board of examiners. Such examination shall be confined to such knowledge as said board deems essential to the practice of optometry. Examinations shall be given by the board at least four times in each year, the first examination to begin on the second Monday in March, and to be held in San Francisco, California; the second to begin on the second Monday in June, and to be held in Los Angeles, California; the third examination to begin on the second Monday in September, and to be held in San Francisco, California, and the fourth examination to begin on the second Monday in December, and to be held in Los Angeles, California. Any person desiring to be examined by said board must fill out and swear to an application furnished by the board, and must file the same with the secretary of said board at least two weeks prior to the holding of an examination which the applicant is desirous of taking. Each applicant on making application shall pay to the secretary of the board a fee of twenty dollars, which shall be for the use of said board. All persons successfully passing such examinations shall be registered in the board register, which shall be kept by said secretary, as licensed to practice optometry, and shall receive a certificate of such registration, to be

signed by the president and secretary of said board, upon the payment to the secretary of said board of the sum of five dollars, which said sum shall be for the use of said board. [Amendment approved March 25, 1909. Stats. 1909, p. 775.]

Also amended in 1907, Stats. 1907, p. 64.

§ 6. Every person who is actually engaged in the practice of optometry in the state of California, at the time of the passage of this act, shall, within six months thereafter, file an affidavit in proof thereof with said board, who shall make and keep record of such person, and shall, in the consideration of the sum of five dollars, issue to him a certificate of registration.

§ 7. All persons entitled to a certificate of registration under the full provisions of section 6, shall be exempt from the provisions of section 5 of this act.

§ 8. All recipients of said certificate of registration shall present the same for filing to the clerk of the county in which they reside, and shall pay a fee of fifty cents to the clerk for recording the same. Said clerk shall record said certificate in a book to be provided by him for that purpose. Any person so licensed removing his residence from one county to another in this state, shall, before engaging in the practice of optometry in such other county, obtain from the clerk of the county in which said certificate of registration is recorded a certified copy of such certificate of registration, and shall, before commencing practice in such county, file the same for record with the clerk of the county to which he removes, and pay the clerk of said county for recording the same a fee of fifty cents. Any failure, neglect, or refusal on the part of any person holding such certificate of registration, or certified copy of such certificate of registration, to record the same, as hereinbefore provided, for six months after the issuance of said certificate of registration, or from the date of removal of residence shall ipso facto work the forfeiture of his certificate of registration, and it shall not be restored except upon the payment of twenty-five dollars to the California state board of examiners in optometry. [Amendment approved March 25, 1909. Stats. 1909, p. 776.]

§ 9. Any person entitled to a certificate, as provided for in section 6 of this act, who shall not within six months after the passage thereof make written application to the board of examiners for a certificate of registration, accompanied by a written statement, signed by him, and duly verified before an officer authorized to administer oaths within this state, fully setting forth the grounds upon which he claims such certificate, shall be deemed to have waived his right to a certificate under the provisions or refusal on the part of any person holding such certificate under the provisions of such section. Any failure, neglect or refusal on the part of any person holding such certificate to file the same for rec-

ord, as hereinbefore provided, for six months after the issuance thereof, shall forfeit the same.

§ 10. Every person to whom a certificate of examination or registration is granted shall display the same in a conspicuous part of his office wherein the practice of optometry is conducted.

§ 11. Out of the funds coming into the possession of said board, each member thereof may receive as compensation, the sum of ten dollars for each day actually engaged in the duties of his office, and mileage at five cents per mile for all distances necessarily traveled in going to and coming from the meetings of the board. Said expense shall be paid from the fees and assessments received by the board under the provisions of this act, and no part of the salary or other expense of the board shall ever be paid out of the state treasury. All moneys received in excess of said per diem allowance and mileage as above provided for, shall be held by the secretary as a special fund for meeting the expense of said board and carrying out the provisions of this act, and he shall give such bonds as the board shall from time to time direct, and the said board shall make an annual report of its proceedings to the governor on the first Monday in January of each year, which report shall contain an account of all moneys received and disbursed by them pursuant to this act. [Amendment approved March 25, 1909. Stats. 1909, p. 776.]

§ 12. Every registered optometrist who desires to continue the practice of optometry in this state, shall annually, on or before the first day of August of each year, pay to the secretary of said board a registration fee to be fixed by the board, and which shall in no case exceed the sum of five dollars per annum, for which he shall receive a renewal of such registration, and in case of the default of such payment by any person, his certificate shall be revoked by the board of examiners, on twenty days' notice in writing by the secretary of the time and place of considering such revocation, and the deposit of said notice in the United States postoffice, addressed to the person at his last known place of residence or business, and the postage prepaid thereon, shall be due and legal service of such notice, but no certificate shall be revoked for such nonpayment if the person so notified shall pay before or at the time of consideration of said revocation his fee and such penalty as may be imposed by said board; provided that said board may impose a penalty not exceeding ten dollars upon persons so notified as a condition for allowing certificates to stand valid. Any person whose certificate of registration has been revoked for failure to pay his renewal fee, as herein provided, may apply to have the same regranted, and the same shall be regranted to him upon his paying to the board all renewal fees that should have been paid had the certificate of registration not been revoked, together with a penalty of twenty-five dollars. [Amendment approved March 25, 1909. Stats. 1909, p. 777.]

Also amended in 1907, Stats. 1907, p. 65.

§ 13. Any person registered as provided for in this act may have his certificate of registration revoked or suspended by the California State Board of Examiners in Optometry for any of the following clauses:

1. His conviction of a felony or misdemeanor involving moral turpitude, in which case the record of conviction, or a certified copy thereof certified by the clerk of the court, or by the judge in whose court the conviction is had, shall be conclusive evidence.

2. When his certificate of registration has been secured by fraud or deceit practiced upon the board.

3. For unprofessional conduct, or for gross ignorance or inefficiency in his profession. Unprofessional conduct shall mean employing what are known as "cappers" or "steerers" to obtain business; the obtaining of any fee by fraud or misrepresentation; employing, directly or indirectly, any suspended or unlicensed optician or optometrist to perform any work covered by this act; the advertising of optical business or treatment or advice in which untruthful, improbable, or impossible statements are made; or habitual intemperance, or gross immorality.

4. When the holder is suffering from a contagious or infectious disease.

Provided, however, that before any certificate shall be so revoked or suspended the holder thereof shall have notice in writing of the charge or charges against him, and at a date specified in said notice at least five days after the service thereof, be given a public hearing, and have an opportunity to produce testimony in his favor, and to confront the witnesses against him. Any person whose certificate has been suspended may, after the expiration of ninety days, apply to have the same re-granted, and the same shall be re-granted him upon a satisfactory showing that the disqualification has ceased. [Amendment approved March 25, 1909. Stats. 1909, p. 777.]

§ 14. Any person who shall violate any of the provisions of this act, shall be deemed guilty of a misdemeanor, and upon conviction, shall be fined not less than fifty dollars, nor more than two hundred dollars, or shall be confined not less than one month, nor more than three months in the county jail; or fined not less than fifty dollars, nor more than two hundred dollars, and imprisoned not less than one month, nor more than three months in the county jail, and in default of payment of said fine, shall be imprisoned in the county jail at the rate of one day for every two dollars of the fine so imposed, and all fines thus received, shall be paid to the secretary of the board for the purposes of the enforcement of this act. [Amendment approved February 28, 1907. Stats. 1907, p. 65.]

§ 15. All justices of the peace and the respective municipal courts shall have jurisdiction of violations of this act. It shall be the duty of the respective district attorneys to prosecute all violations of this act, and it shall be the duty of police officers, sheriffs, constables and marshals to report any violations of this act to the secretary of the California State Board of Examiners in Optometry, and render such assistance to the board, or an officer thereof, as they may be called upon to perform. [Amendment approved March 25, 1909. Stats. 1909, p. 778.]

§ 16. Nothing in this act shall be construed to apply to physicians or surgeons authorized to practice under the laws of the state of California, nor to persons who sell spectacles or eye-glasses, or lenses as merchandise. [Amendment approved March 25, 1909. Stats. 1909, p. 778.]

Also amended in 1907, Stats. 1907, p. 65.

§ 17. It shall be unlawful for the board of examiners in optometry to grant a certificate to any one in the state of California under legal age. [Amendment approved February 28, 1907. Stats. 1907, p. 65.]

TITLE 363.

ORANGE COUNTY.

ACT 2578.

To create the county of Orange, to define the boundaries thereof, to determine the county seat by an election, and to provide for its organization and election of officers, and to classify said county. [Approved March 11, 1889. Stats. 1889, p. 123.]

Citations. Cal. 81/491, 501; 104/236: 152/228.

TITLE 364.

ORDINANCES.

ACT 2583.

An act to require ordinances and resolutions passed by the city council or other legislative body of any municipality to be presented to the mayor or other chief executive officer of such municipality for his approval. [Approved March 27, 1897. Stats. 1897, p. 190.]

Citations. Cal. 118/486, 487; 123/460: 150/64. App. 8/499, 500, 501, 508, 504.

Unconstitutional as to cities having charters: *Morton v. Broderick*, 118 Cal. 486.

§ 1. Every ordinance and every resolution of the city council of any municipality providing for any specific improvement, or the granting of any franchise, or other privilege, or affecting real property interests, or the expenditure of more than one hundred dollars of the public moneys, or levying tax or assessment, or establishing rates for artificial light, and every ordinance or resolution imposing a duty or penalty, which shall have passed the city council, shall, before it takes effect, be presented to the mayor for his approval. The mayor shall return such ordinance or resolution to the city council within ten days after receiving it. If he approve it he shall sign it, and it shall then take effect. If he disapprove it he shall specify his objections thereto in writing. If he do not return it with such disapproval within the time above specified, it shall take effect as if he had approved it. The objections of the mayor shall be entered at large on the journal of the city council, and the city council shall cause the same to be immediately published. The city council shall, after five, and within thirty days after such ordinance or resolution shall have been returned with the mayor's disapproval, re-

consider and vote upon the same; and if the same shall, upon reconsideration, be again passed by the affirmative vote of not less than three-fourths of all the members, the presiding officer shall certify that fact on the ordinance or resolution, and when so certified, it shall take effect as if it had received the approval of the mayor; but if the ordinance or resolution shall fail to receive upon the first vote thereon after its return with the mayor's disapproval, the affirmative votes of three-fourths of all the members, it shall be deemed finally lost. The vote on such reconsideration shall be taken by ayes and noes, and the names of the members voting for or against the same shall be entered in the journal; provided, that the provisions of this section shall not apply to cities in which the mayor is a member of the city council, or other governing body.

§ 2. The word "municipality," and the word "city," as used in this act, shall be understood and so construed as to include, and is hereby declared to include, all corporations heretofore organized and now existing, and those hereafter organized, for municipal purposes.

§ 3. The term "city council" is hereby declared to include any body or board which, under the law, is the legislative department of the government of any city.

§ 4. In municipalities in which there is no mayor, then the duties imposed upon said officer by the provisions of this act shall be performed by the president of the board of trustees, or other chief executive officer of the municipality.

§ 5. This act shall take effect and be in force from and after its passage, and all acts and parts of acts in conflict with this act are hereby repealed.

TITLE 365 OROVILLE.

ACT 2588.

To supply the town of Oroville with water for fire purposes. [Stats. 1877-78, p. 796.]

TITLE 366. ORPHAN ASYLUM.

ACT 2593. .

Appropriation for relief of. [Stats. 1871-72, p. 903.]

Apparently superseded by 1880, p. 18.

ACT 2594.

In relation to the care of orphan and abandoned children. [Stats. 1873-74, p. 297.]

Amended 1877-78, p. 72.

Partly codified by amendment of Penal Code 1905: See note to § 271a, Penal Code. See, also, § 246, subd. 4, of the Civil Code.

This act required the quarterly publication of the names of children admitted and also provided as to what constituted an abandonment of children.

ACT 2595.

Appropriating money for support of orphans, half-orphans, and abandoned children. [Stats. 1880, p. 13.]

Amended 1883, p. 57; 1907, p. 856.

Citations. Cal. 115/585; 128/151; 186/64; 189/400, 402, 406, 407, 408.

Codified by §§ 2283-2290 of Political Code: See Political Code, §§ 2283-2290.

ACT 2596.

To authorize managers of orphan asylums to give their consent to the adoption of certain children under their care. [Approved April 1, 1878. Stats. 1877-78, p. 963.]

See Civil Code, § 224.

ACT 2597.

To provide for the appointment of guardians of children in orphan asylums maintained in any orphans' home or orphan asylum in this state. [Stats. 1893, p. 203.]

This act appears in full in Civil Code, Appendix, p. 811.

TITLE 367.**OSTEOPATHY.****ACT 2602.**

An act to regulate the practice of osteopathy in the state of California, and to provide for a state board of osteopathic examiners, and to license osteopaths to practice in this state, and punish persons violating the provisions of this act. [Became a law under constitutional provision without governor's approval, March 9, 1901. Stats. 1901, p. 113.]

Amended 1909, p. 418.

Probably superseded by the act of March 14, 1907, regulating the practice of medicine, surgery, osteopathy and other modes of treating the sick or afflicted: See ante, Act 2163.

TITLE 368.**OYSTERS.****ACT 2607.**

Concerning oysters. [Stats. 1851, p. 432.]

Continued in force by codes,—Penal Code, § 23; Political Code, § 19,—and later repealed, Stats. 1878-74, p. 941.

ACT 2608.

Concerning oyster-beds. [Stats. 1865-66, p. 848.]

Continued in force, Penal Code, § 23; Political Code, § 19, and later repealed, Stats. 1878-74, p. 940.

ACT 2609.

Encouraging planting and cultivation of. [Stats. 1873-74, p. 940.]

Citations. Cal. 150/894.

TITLE 369.**PARIS GREEN.****ACT 2614.**

An act to prevent fraud in the sale of paris green used as an insecticide, [Became a law under constitutional provision without governor's approval, February 28, 1901. Stats. 1901, p. 69.]

§1. It shall be the duty of each and every manufacturer of paris green (commercial aceto-arsenite of copper) to be used as an insecticide within this state, and of every dealer in original packages of said paris green manufactured outside of this state, before the said paris green is offered or exposed for sale, or sold within this state as an insecticide, to submit to the director of the California agricultural experiment station at Berkeley, samples of said paris green, and a written or printed statement setting forth: First, the brands of said paris green to be sold, the number of pounds contained in each package in which it is put on the market for sale, the name or names of the manufacturers and the place of manufacturing the same; second, the statement shall set forth the amount of combined arsenic which the said paris green contains, and the statement so furnished shall be considered as constituting a guarantee to the purchaser that every package of such paris green contains not less than the amount of combined arsenic set forth in the statement.

§2. Every purchaser of said paris green in original packages, which is manufactured outside of this state, who intends to sell or expose the same for sale, and every manufacturer of said paris green within this state, shall, after filing the statement above provided for, with the director of the California agricultural experiment station at Berkeley, receive from the said director a certificate stating that he has complied with the foregoing statement, which certificate shall be furnished without charge therefor; said certificate when furnished shall authorize the party when receiving the same to deal in this state in the said paris green. Any person who fails to comply with the terms of section 1 of this act shall not be entitled to such certificate and shall not be entitled to deal in said paris green within this state. Nothing in this section shall be construed as applying to retail dealers selling said paris green which has already been labeled and guaranteed.

§3. Paris green, when sold, offered or exposed for sale, as an insecticide, in this state, shall contain at least fifty per centum of arsenious oxide and shall not contain more than four per centum of the same in the uncombined state.

§4. The director of the California state agricultural station at Berkeley shall examine or cause to be examined different brands of paris green sold, offered or exposed for sale within the state, and cause samples of the same to be analyzed, and shall report results of analyses forthwith to the secretary of the state board of horticulture and to the party or parties submitting said samples, and such report shall be final as regards its quality.

§ 5. Any person or persons, firm, association, company or corporation violating any of the provisions of this act, and any person who shall sell any package of paris green or any part thereof which has not been labeled as herein provided, shall be guilty of a misdemeanor, and shall be fined not less than fifty dollars nor more than two hundred dollars, together with the costs of the suit in an action caused to be brought by the state board of horticulture through its secretary in the name of the people of the state of California.

§ 6. The attorney general of the state of California is charged with the prosecution of all such suits.

§ 7. This act shall take effect immediately.

TITLE 370.

PAROLE COMMISSIONERS.

ACT 2619.

To establish board of parole commissioners for the parole of and government of paroled prisoners. [Stats. 1893, p. 183.]

Amended 1901, p. 82.

This act appears in full in Penal Code, Appendix, p. 897.

ACT 2620.

An act to provide for the creation of a board of parole commissioners for each county in this state, for the paroling of prisoners confined in county jails, and authorizing and empowering such boards to make rules and regulations in relation thereto.

[Approved March 25, 1909. Stats. 1909, p. 783.]

§ 1. A board of parole commissioners consisting of the sheriff and district attorney is hereby created for each county in this state, who shall establish rules and regulations under which any prisoner who is now or hereafter may be imprisoned in the county jail of said county after judgment of conviction for the commission of a misdemeanor, may be allowed to go upon parole outside of the said jail, but to remain while on parole in the legal custody and under the control of the board establishing said rules and regulations, and subject at any time to be taken back within the enclosure of said jail; and full power to make and enforce such rules and regulations and retake and imprison any prisoner so upon parole is hereby conferred upon the said board hereinbefore mentioned, whose written order shall be a sufficient warrant for all officers named therein to authorize such officer to return to actual custody any conditionally released or paroled prisoner, and it is hereby made the duty of all chiefs of police, marshals of cities and villages, and sheriffs of counties, and all police and peace officers and constables to execute any such order in like manner as ordinary criminal process. If any prisoner so paroled shall leave the county in which he was so imprisoned without permission from the board granting his parole, he shall be held as an escaped prisoner and arrested as such.

§ 2. This act shall take effect immediately from and after its passage.

**TITLE 371.
PARTNERSHIPS.**

ACT 2624.

To authorize the formation of special partnerships. [Stats. 1869-70, p. 123.]

Superseded by Civil Code, §§ 2477-2485.

**TITLE 372.
PASADENA.**

ACT 2627.

Charter of Pasadena. [Stats. 1901, p. 884.]

Amended 1905, p. 1011; 1909, p. 1198.

Citations. Cal. 152/589, 592.

**TITLE 373.
PAUPERS.**

ACT 2629.

To provide for the indigent sick in the counties of this state. [Stats. 1855, p. 67.]

Probably repealed by the County Government Act: See *Power v. May*, 123 Cal. 147, 150. Compare the act of 1901, p. 686, to provide for the maintenance and support of indigent, incompetent, and incapacitated persons.

ACT 2630.

Appropriation for support of aged persons in indigent circumstances. [Stats. 1883, p. 380.]

Repealed 1895, p. 28.

This act provided for a per capita appropriation for persons maintained in institutions.

Citations. Cal. 69/74; 77/184; 114/395; 128/151; 136/64; 138/59.

ACT 2631.

An act to provide for the maintenance and support, in certain cases, of indigent, incompetent, and incapacitated persons (other than persons adjudged insane and confined within state hospitals), becoming a public charge upon the counties or cities and counties within the state of California, and for the payment thereof into a fund for the maintenance and support of such persons.

[Approved March 23, 1901. Stats. 1901, p. 636.]

Citations. Cal. 148/70.

§1. Every county and every city and county shall relieve and support all pauper, incompetent, poor, indigent persons and those incapacitated by age, disease, or accident, lawfully resident therein, when such persons are not supported and relieved by their relatives or friends, or by their own means, or by state hospitals or other state or private institutions.

§ 2. The term "residence" as used in this act shall be taken to mean and shall be considered to mean the actual residence of each of such persons, or the place where such person was employed, or in case such person was in no employment, then it shall be considered and held to be the place where such person made his or her home, or his or her headquarters.

§ 3. Every person, firm or corporation, or the officers, agents, servants, or employees of any person, firm or corporation, bringing into or leaving within, or procuring the bringing into or the leaving within, or aiding in the bringing into or the leaving within, of any pauper or poor or indigent or incapacitated or incompetent person as hereinbefore mentioned, in any county or city and county in the state of California, wherein such person is not lawfully settled or not lawfully residing as herein defined, knowing him to be such pauper, poor, indigent, or incapacitated or incompetent person, shall be guilty of a misdemeanor.

§ 4. If any person shall become chargeable as a pauper, or poor, or indigent, or incapacitated, or incompetent person as herein designated, in any county, or city and county, who did not reside therein (as herein specified) at the commencement of three months immediately preceding his becoming so chargeable, but did at that time reside (as herein specified) in some other county, or city and county in this state, it shall be the duty of the county clerk of said first-mentioned county or city and county to send written notice by mail or otherwise to the county clerk of the county or city and county in which such person so resided, requesting the proper authorities of such county or city and county to remove such person forthwith, and to pay the expenses accruing or to accrue, in taking care of such person; and such county or city and county, wherein such person resided at the commencement of the three months immediately preceding such person's becoming chargeable as a poor, indigent, or incapacitated, or incompetent person as herein designated, shall pay to the county or city and county so taking care of such person all reasonable charges for the same, and such amount may be recovered by suit in any court of competent jurisdiction by such county or city and county.

§ 5. It shall be the duty of the superintendent of any county hospital or almshouse in any county or city and county in this state, or his subordinates, immediately upon receiving any person into such hospital or almshouse as a public charge, such person being poor, indigent, or incapacitated, or incompetent as herein defined, or any registrar of charities or of any charity supported by public funds or aided in part by public funds, aiding such person, to make diligent inquiry into the ability of such person or of his relatives as hereinafter mentioned to bear the actual charges and expenses of the maintenance and support of such person, and to forthwith notify the district attorney of such county or city and county, or the city and county attorney thereof, and the board of supervisors of such county or city and county, of the result of such inquiry.

§ 6. In case such person shall be or shall thereafter become the owner of property, real, personal, or mixed, it shall be the duty of the district attorney of the county, or city and county, or the city and county attorney thereof, in which such person shall become a public charge, in whole or in part, to cause the entire or partial support as hereinafter provided to be fixed, of such person to be made out of such property, and to that end shall procure by suit or otherwise the assignment and payment for such purpose of all annuities and pensions; and in case such person shall be incompetent or a minor, within the provisions of the codes relating to the guardianship of the persons and estates of incompetent persons and minors, it shall be the duty of the district attorney of such county, or city and county, or the city and county attorney thereof, to apply to the proper court for the appointment of a general guardian of the person and estate, or either, of such person or minor. Such application and appointment shall be made in the manner as provided by the codes of this state for the application for the appointment of guardians of infants and incompetent persons, and all proceedings thereunder, except as herein expressly declared otherwise, shall be in accordance with such provisions of said codes, and the public support of such minor or such incompetent shall be deemed one of the grounds for which an application may be made on behalf of such person for the sale of his property, as in the Code of Civil Procedure provided. From the proceeds of the property of said person or from such other funds as such guardian may obtain, or from such funds as the district attorney of the county, or the city and county, or the city and county attorney thereof, may be able to collect, there shall be paid into the county treasury of the county, the sum per month fixed by the board of supervisors of such county or city and county, quarterly in advance, for the maintenance and support of any such person or pauper; and there shall also be paid out of the proceeds of such sale or such other funds, such clothing and other supplies as may have been furnished to such person or pauper.

If any pauper, indigent, poor, incompetent, or incapacitated person has kindred of the degree of husband, wife, children (other than minors), father or mother, brother or sister, grand-children, or grand-parents living within this state, of sufficient pecuniary ability, such kindred in the order above named shall support such person by paying into the county treasury of such county, the sum per month fixed on by the board of supervisors, quarterly in advance, for the maintenance and support of such pauper, indigent, poor, incompetent or incapacitated person, and shall in the order above named, also pay for the clothing and other supplies, if any, furnished to such person. And if it shall be that the relatives liable as aforesaid are not of sufficient ability wholly to maintain such poor person or pauper, but are able to contribute something, they shall be required to pay a sum in proportion to their ability.

§ 7. Upon the failure on the part of said kindred to perform such duty, an action shall be brought by the district attorney of the county or the city and county, or the city and county attorney thereof, in the name of

the county or city and county, against said kindred in the order above named. And such action shall be prosecuted as are all other actions for the recovery of money in this state.

§ 8. If there be in the hands of any guardian of any such person or in the hands of any officer of said county upon the discharge or death of said person, any funds, the same shall be refunded after the payment of all the claims of the said county or city and county thereon and of the funeral expenses, in case of death of such person.

§ 9. All moneys derived in accordance with the provisions of this act shall be paid into such fund of the county or city and county as is used for the support and furtherance of the care of the persons herein referred to.

§ 10. This act shall take effect immediately.

TITLE 374.

PAWNBROKERS.

ACT 2636.

To define the duties and liabilities of pawnbrokers and pledgees. [Stats. 1861, p. 184.]

Amended 1869-70, p. 820; 1871-72, p. 102. Superseded by Penal Code, §§ 338-348.

ACT 2637.

An act to define personal property brokers and regulate their charge and business.

[Approved April 16, 1909. Stats. 1909, p. 969.]

Personal property broker defined.

§ 1. That every person or corporation engaged in the business of loaning or advancing money or other thing and taking in whole or in part as security for such loan or advance any chattel mortgage, bill of sale or other obligation or contract involving the forfeiture of rights in or to personal property, the use or possession of which is retained by other than the mortgagee or lender, or engaged in the business of loaning or advancing money or other thing, and taking either in whole or in part as security therefor any lien on, assignment of or power of attorney relative to wages, salary, earnings, income or commissions, shall be held, and, for the uses and purposes of this act, is hereby declared and defined to be a personal property broker.

Percentage that may be charged.

§ 2. Such personal property broker may charge, receive and collect a benefit or percentage upon money or other thing advanced, or for the use and forbearance thereof, of five per centum per month where such loan or advance is made upon security properly falling within the scope of business as set forth in section 1 hereof.

Further charges forbidden. Exception.

§ 3. No further or other charges either for recording, insuring or examining the security or property, or for the drawing, executing or filing of papers, or for any services or upon any pretext whatsoever beyond the aforesaid charge for interest or discount shall be asked, charged, or in any way received, where the same would thereby make a greater charge for the money or thing advanced than the aforesaid rate of five per centum per month, and where made, all such charges shall be considered and be of the same effect as so much added interest; provided, however, that with the consent of the borrower he may be required to pay the fees or charges actually expended where the same are made necessary by law to give full legal effect to any instrument given hereunder.

Excess of legal rate forbidden.

§ 4. No contract of any kind or nature made by any personal property broker which comes within the scope of business as set forth in section 1 hereof, or which in any way involves any security given to secure the performance of such contract, shall be valid or of any force, virtue or effect, either at law or in equity, if there is therein or thereon directly or indirectly charged, accepted or contracted to be received or paid, either in money, goods, discount, or thing in action, or in any other way, a greater benefit, rate of discount, or interest than the rate of five per centum per month; and if a greater benefit, rate of discount or interest than five per centum per month is directly or indirectly advanced or paid upon any such contract as is in this section designated, the excess above the said rate of five per centum per month so advanced or paid may be demanded and recovered by the person or his legal representatives or assigns who advanced or paid the same from the person or corporation either to whom or for whose use or benefit such payment or advance or any part thereof was made.

Loan tickets.

§ 5. Whenever a loan or advance shall be made, renewed or extended, hereunder there shall be given to the borrower a ticket or memorandum plainly inscribed with the name of the person or corporation making the loan, and members or general partners of the same if it be a firm, partnership or association, and further designating the number and nature of the instruments taken as security, the number of notes and amount of each, and the name of the party or parties in whose favor each of the aforesaid papers are executed, when the same are payable, the amount actually advanced thereon, the amount including all interest and expenses charged or to be paid for such loan or advance, and copies of sections 2, 3 and 4 of this act.

Violation of act, penalty for.

§ 6. The failure of any person or corporation, or any employee, employees, agent, agents, representative or representatives making, renewing or extending a loan or advance properly falling within the scope of business as set forth in section 1 of this act to comply with any or

any part of the provisions of section 5 hereof, shall be punishable by a fine of not to exceed fifty dollars for the first offense, and by a fine of not to exceed two hundred dollars for each subsequent offense.

TITLE 375.**PENSIONS.****ACT 2641.**

Authorizing county clerks to take affidavit for pension claimants without payment of fees or compensation. [Stats. 1887, p. 81.]

This act appears in full in Political Code, Appendix, tit. "County Clerks."
See Political Code, § 4802.

TITLE 376.**PESTHOUSES.****ACT 2646.**

To prevent the establishment of pesthouses within the limits of any town or city. [Stats. 1853, p. 35.]

Superseded by Penal Code, § 878.

TITLE 377.**PETALUMA.****ACT 2651.**

Reincorporating. [Stats. 1873-74, p. 703.]

Amending and supplementing act of March 27, 1868. Repealed 1873-74, p. 865.

ACT 2652.

Reincorporating. [Stats. 1867-68, p. 383.]

Amended 1871-72, p. 48; 1873-74, pp. 23, 857, 703, 865; 1875-76, p. 288. Superseded in 1884 by incorporating under the statute of 1883.

ACT 2653.

. Powers and duties of board of education of. [Stats. 1871-72, p. 5.]

Sections 5 and 15 amended, and section 16 and 17 repealed, 1875-76, p. 121. Two sections numbered 16 and 17 added, 1877-78, p. 291. The city was reincorporated in 1884, under the statute of 1883.

ACT 2654.

Providing a system of sewerage for. [Stats. 1877-78, p. 436.]

Superseded by incorporating, in 1884, under Municipal Corporation Act of 1883.

ACT 2655.

To widen English Street, and to take private lands therefor. [Stats. 1875-76, p. 473.]

Amended 1877-78, p. 203.

Citations. Cal. 152/193.

TITLE 378.
PETALUMA CREEK.

ACT 2660.

Erection and maintenance of a drawbridge across, by the trustees of Petaluma, act authorizing. [Stats. 1875-76, p. 726.]

ACT 2661.

To improve the navigation of. [Stats. 1859, p. 214.]

Amended 1865-66, p. 525.

TITLE 379.
PHARMACY.

ACT 2664.

An act to regulate the practice of pharmacy in the state of California.

[Approved March 20, 1905. Stats. 1905, p. 535.]

Amended 1907, p. 766; 1909, p. 1018. (See 1907, p. 124.)

The title of this act was amended March 21, 1907, Stats. 1907, p. 766, to read as follows: "An act to regulate the practice of pharmacy in the state of California, and to provide a penalty for the violation thereof; and for the appointment of a board to be known as the California state board of pharmacy."

§ 1. From and after the passage of this act it shall be unlawful for any person to manufacture, compound, sell, or dispense any drug, poison, medicine or chemical, or to dispense or compound any prescription of a medical practitioner, unless such person be a registered pharmacist or a registered assistant pharmacist within the meaning of this act, except as hereinafter provided. Every store, dispensary, pharmacy, laboratory or office for the sale, dispensing or compounding of drugs, medicines or chemicals, or for the dispensing of prescriptions of medical practitioners, shall be in charge of a registered pharmacist. A registered assistant pharmacist may be left in charge of a store, dispensary, pharmacy, laboratory or office for the sale, dispensing, or compounding of drugs, medicines or chemicals or for the dispensing of prescriptions of medical practitioners only during the temporary absence of the registered pharmacist. Temporary absence within the meaning of this act shall be held to be only those unavoidable absences which may occur during a day's work, and when the registered pharmacist in charge shall be within immediate call, ready and able to assume the direct supervision of said pharmacy. No registered assistant shall conduct a pharmacy. Every store or shop where drugs, medicines or chemicals are dispensed or sold at retail, or displayed for sale at retail, or where prescriptions are compounded, which has upon it or in it as a sign, the words "pharmacist," "pharmaceutical chemist," "apothecary," "druggist," "pharmacy," "drug-store," "drugs," or any of these words, or the characteristic show-bottles or globes, either colored or filled with colored liquids, shall be deemed a "pharmacy" within the meaning of this act.

§ 2. Any person in order to be a registered pharmacist must be a licentiate in pharmacy, or a practicing pharmacist.

§ 3. Licentiates in pharmacy are persons who have had five years' experience in stores where the prescriptions of medical practitioners are compounded, and shall have passed an examination before the state board of pharmacy, or who shall present satisfactory evidence to the said board that they have had twenty years' actual experience in the practice of pharmacy, and have also been registered as a licentiate, or assistant pharmacist in good standing in any state or territory for a period of at least ten years prior to the date of their application; provided, that graduates from a reputable college of pharmacy may be registered after eighteen years of like experience. Practicing pharmacists are persons who, at the passage of this act, are registered as such, and who shall have on or before the first day of January next succeeding the passage of this act, paid to the board of pharmacy of this state all moneys due for renewal of registration as required by the acts of the legislature regulating the practice of pharmacy in the state of California, approved March 11, 1891, and March 15, 1901. [Amendment approved April 21, 1909. Stats. 1909, p. 1013.]

§ 4. Registered assistant pharmacists are persons who at the time of the passage of this act are already registered as such, and who shall have on or before the first day of January next succeeding the passage of this act paid to the board of pharmacy of this state all moneys due for renewal of registration as required by the acts of the legislature regulating the practice of pharmacy in the state of California, approved March 11, 1891, and March 15, 1901; provided, that no person shall be examined or registered as a licentiate, unless such person has had five years' pharmaceutical experience in a pharmacy under the supervision of a registered pharmacist; and provided further, that no person shall be examined or registered as an assistant pharmacist from and after the passage of this act; unless such person shall be not less than eighteen years of age and has had not less than three years' instruction and experience in a pharmacy, under a registered pharmacist; or has been registered as an apprentice as provided in section 15 of this act for not less than three years; and, provided further, that an applicant for registration as an assistant pharmacist must first pass a satisfactory examination before the board of pharmacy.

§ 5. The governor shall appoint seven competent registered pharmacists, residing in different parts of the state, to serve as a board of pharmacy. The members of the board shall, within thirty (30) days after their appointment, individually take and subscribe before the county clerk, in the county in which they individually reside, an oath faithfully and impartially to discharge the duties prescribed by this act. They shall hold office for the term of four (4) years, and until their successors are appointed and have qualified. In case of vacancy in the board of pharmacy, the governor shall fill the same by appointing a member to serve for the remainder of the term only. The office of the board shall be located in San Francisco. The board shall organize by electing a president, a secretary, and a treasurer. The secretary may or may not be

a member of the board as the board in its sound discretion shall determine. The secretary and treasurer shall each give a satisfactory bond running to the board of pharmacy in a sum of not less than two thousand dollars, and such greater sum as the board may from time to time, require for the faithful discharge of their respective duties.

§ 6. It shall be the duty of the secretary to keep a book of registration open at the city of San Francisco, in which shall be entered under the supervision of the board, the names, titles, qualifications, and places of business of all persons coming under the provisions of this act. The secretary shall give receipts for all moneys received by him and pay the same to the treasurer of the board, taking his receipt for the same. The treasurer shall disburse the same by order of the board for necessary expenses, taking proper vouchers therefor. The balance of said money, after paying the expenses of the board, he shall pay to the state treasurer, who shall keep it in a special fund to be used in carrying out the provisions of this act. It shall be the duty of the secretary of the board to erase from the register the name of any registered pharmacist or assistant pharmacist who has died, or who in the opinion of the board has forfeited his right under the law to do business in this state. Beside the duties required by this act, it shall be the duty of the secretary to perform such other reasonable duties appertaining to his office, as may be required of him by the board of pharmacy. The secretary shall receive such compensation as may be fixed by the board of pharmacy, if he be a member of the board, then such compensation shall be in addition to his per diem as a member of said board.

§ 7. Four members of the board shall constitute a quorum. They shall hold a meeting at least once in every four months.

Powers and Duties of the Board.

Subdivision 1. The state board of pharmacy shall have power:

(a) To make such by-laws and regulations, not inconsistent with the laws of this state, as may be necessary for the protection of the public, appertaining to the practice of pharmacy and the lawful performance of its duties.

(b) To regulate the practice of pharmacy.

(c) To regulate the sale of poisons.

(d) To regulate the quality of all pharmaceutical preparations and medicines dispensed or sold in this state, using the United States Pharmacopœia or National Formulary, as the standard.

(e) To investigate all complaints as to the quality and strength of all pharmaceutical preparations and medicines, and to take such action as may be necessary to prevent the sale of such as do not conform to the standard and tests prescribed in the latest edition of the United States Pharmacopœia or National Formulary.

(f) To employ inspectors of pharmacy and to inspect during business hours all pharmacies, dispensaries, stores, or places in which drugs, medicines and poisons are compounded, dispensed or retailed, and to cause

the prosecution of all persons whenever there appears to the board to be reasonable ground for such action.

(g) To examine and register as pharmacists and assistant pharmacists all applicants whom it shall deem qualified to be such. All persons applying for registration, under this act, shall pay the following fees therefor to the secretary of the board of pharmacy: Every applicant for registration, other than that of an apprentice, shall pay a fee of ten dollars on filing his or her application, which shall be compensation to the board of pharmacy for investigation or examination of the applicant; and if the board finds that any applicant for registration on experience and credentials is entitled to be registered, then he or she shall pay an additional fee of fifteen dollars upon the issuance of certificate of such registration; and any licentiate found by the board on examination to be entitled to a certificate shall pay the additional sum of five dollars upon the issuance of certificate; all applicants for examination as assistant, if found satisfactory by the board, shall be entitled to their certificate without further fee; and provided further, that an applicant for registration on experience and credentials may at his or her option be examined as a licentiate without further fee for application.

(h) In the event any person having registered shall have lost his or her certificate, or the same has been destroyed, or if he or she desires the renewal of the same, a new certificate may be issued by said board upon the applicant paying therefor the sum of three dollars; provided further, that where the original certificate is not lost or destroyed, then the certificate shall be surrendered before a renewal of same shall be issued; and provided further, that the board shall have power to require satisfactory evidence from the applicant of the loss or destruction of the certificate; and provided further, that where the applicant is delinquent for the annual dues required by this act then he or she shall be required to pay to said board sufficient fees to cover his delinquency in that behalf before he or she shall be entitled to a reissue of the certificate in this subdivision provided for.

(i) To provide by proper rules and regulations for the revocation by said board of licenses issued under the provisions of this act, whenever the holder of such license shall be guilty of habitual intemperance or addicted to the use of narcotic drugs, or shall have been convicted of a felony. [Amendment approved April 21, 1909. Stats. 1909, p. 1013.]

Also amended in 1907, Stats. 1907, p. 766.

§8. No member of the board shall teach pharmacy in any of its branches, unless it be as a teacher in a public capacity and in a college of pharmacy. The members of the board of pharmacy shall each be paid the sum of eight dollars per diem for every meeting of the board which they attend, together with their necessary expenses, and mileage at the rate of five cents per mile for each mile necessarily traveled. All compensation of members and all other expenses of the board, shall be paid out of the examination and registration fees and fines.

§9. Every person holding a certificate from said board shall renew annually their registration with said board; and every registered pharma-

cist, and every assistant registered pharmacist who desires to retain his registration on the books of the board of pharmacy in this state shall annually, after the expiration of the first year's registration and on or before the first day of July of each succeeding year, pay to the secretary of the board of pharmacy a renewal fee, to be fixed by the board, which shall not exceed two dollars for registered pharmacist and one dollar for assistant registered pharmacist, in return for which fee a renewal certificate of registration shall be issued. In case any person defaults in payment of said fee his or her registration may be revoked by the board of pharmacy on sixty days' notice, in writing from the secretary, unless within said time the fee is paid, together with such penalty not exceeding ten dollars, as the board may impose. Upon payment of said fee and penalty the board must reinstate the delinquent's registration. No person having received, or who may hereafter receive a certificate of registration as a pharmacist or assistant pharmacist, shall engage in business as pharmacist or assistant pharmacist, in any county of this state in which he or she shall locate, or into which he or she shall afterwards remove, until he or she shall have had such certificate recorded in the office of the county clerk of such county, and it is hereby made the duty of the county clerk to record such certificate in a book to be provided and kept for that purpose, and the county clerk is authorized to charge a fee of fifty cents for the recording of such certificate—to be paid by the person offering such certificate for record. Each pharmacist or assistant pharmacist holding a certificate of registration as a pharmacist, or assistant pharmacist, and being engaged in business as a pharmacist or assistant pharmacist, shall have such certificate recorded, as is in this section provided, within thirty days after the taking effect of this act. The record of the certificate required by this section, or a certified copy thereof, shall be evidence in all courts that the person holding it was registered as evidenced by said certificate on the date of the same. Any registered pharmacist or assistant registered pharmacist failing to comply with any of the foregoing provisions shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than five dollars nor more than twenty-five dollars. Upon the certificate being recorded as herein provided, it shall be the duty of the county clerk to notify the secretary of the board of pharmacy of the name of the party and the date of such record. [Amendment approved March 21, 1907. Stats. 1907, p. 767. In effect in sixty days.]

§ 10. Every person upon receiving a certificate of registration under this act, or who has heretofore received a certificate of registration in this state, shall keep his last receipt for re-registration, conspicuously exposed in his place of business. Every registered pharmacist, and assistant pharmacist, shall within thirty days after the changing of his place of business as designated on the books of the board of pharmacy, notify the secretary of the board of his new place of business, and upon receipt of said notification, the secretary shall make the necessary change in his register.

§ 11. Every proprietor or manager of a pharmacy or drugstore shall be held responsible for the quality of all drugs, chemicals and medicines

sold or dispensed by him, except those sold in the original packages of the manufacturer and except those articles or preparations known as patent or proprietary medicines. Any persons who shall knowingly, willfully, or fraudulently falsify or adulterate, or cause to be falsified or adulterated, any drug or medicinal substance, or any preparation authorized or recognized by the pharmacopœia of the United States or used, or intended to be used, in medical practice, or shall mix, or cause to be mixed, with any such drug or medicinal substance any foreign or inert substance whatever, for the purpose of destroying or weakening its medicinal power or effect, or of lessening its cost, and shall willfully, knowingly, or fraudulently sell the same, or cause it to be sold, for medicinal purposes, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than fifty dollars and not more than two hundred dollars, or by imprisonment for not less than fifty days and not more than two hundred days, or by both such fine and imprisonment.

Every registered pharmacist shall file or cause to be filed, all physician's prescriptions, or a copy thereof, compounded or dispensed in his pharmacy or store, and any person who shall willfully fail so to do shall be deemed guilty of a misdemeanor and upon conviction thereof shall be liable to a fine not exceeding fifty dollars; and for such subsequent offense shall be liable to a fine of not less than fifty dollars, and not more than one hundred dollars. The state board of pharmacy may at any time, when in their judgment it appears advisable, depute one of their members, or any other competent person, to investigate any suspected violation of any of the provisions of this act, and if the result of such investigation seems to the board to justify such action the board shall cause the prosecution of any person violating any of the provisions of this act. [Amendment approved April 21, 1909. Stats. 1909, p. 1015.]

§ 12. Any person who shall attempt to secure, or secures registration for himself or any other person under this act by making or causing to be made any false representations, or who shall fraudulently represent himself to be registered, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be liable to punishment by a fine not exceeding one hundred dollars, or by imprisonment for a term not exceeding fifty days, or by both such fine and imprisonment. Any person who shall permit the compounding of prescriptions of medical practitioners, or the selling of drugs and medicines, in his or her store or pharmacy, except under the direct, immediate and personal supervision of a registered pharmacist, or any person not registered who shall retail medicine, poisons or chemicals, except in a pharmacy under the direct, immediate and personal supervision of a registered pharmacist, or any person violating any of the provisions of this act, when no other penalty is provided, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be liable to punishment by a fine of not less than twenty dollars, and not more than one hundred dollars, or by imprisonment of not exceeding fifty days, or by both such fine and imprisonment. All fines recoverable under this act shall be paid by the magistrate receiving the same to the state board of pharmacy. Any person convicted of violating

the provisions of this act the third time shall in addition to the penalties hereinbefore mentioned have his or her registration as a pharmacist canceled. Nothing in this act shall apply to or interfere with any practitioner of medicine who is duly registered as such by the state board of medical examiners of this state with supplying his own patients, as their physician, and by them employed as such, with such remedies as he may desire and who does not keep a pharmacy, open shop, or drug-store, advertised or otherwise for the retailing of medicines or poisons, nor does this act apply to the exclusively wholesale business of any dealer. Nor does this apply to registered, trademarked or copyrighted proprietary medicines, registered in the United States patent office nor to the sale of proprietary medicines, when manufactured under the supervision of a registered pharmacist in the state of California for which trademarks may have been filed with the secretary of state of California, by merchants possessing a license issued by the board of pharmacy as described in section 16 of this act. [Amendment approved March 21, 1907. Stats. 1907, p. 768. In effect in sixty days.]

§ 13. Any proprietor of a pharmacy, who shall fail, or neglect to place in charge of such pharmacy a registered pharmacist, or any proprietor, who shall by himself, or any other person, permit the compounding of prescriptions, or the vending of drugs, medicines, or poisons, in his or her store, or place of business, except by or in the presence and under the direct, immediate and personal supervision of a registered pharmacist, or any person, not being a registered pharmacist, who shall take charge of, or act as manager of any pharmacy, or store, or who, not being a registered pharmacist, retails, compounds, or dispenses drugs, medicines, or poisons, shall be guilty of a misdemeanor, and upon conviction thereof shall be liable to a fine of not less than twenty (\$20) dollars and not more than one hundred dollars, or by imprisonment for a term of not exceeding fifty days, or by both such fine and imprisonment. [Amendment approved April 21, 1909. Stats. 1909, p. 1015.]

Also amended in 1907, Stats. 1907, p. 769.

§ 14. Any member of the board of pharmacy, or inspector duly authorized by said board may examine applicants orally, or in writing, and issue a temporary certificate to practice pharmacy, which shall authorize such practice for a period not to exceed four months from its date. The issuance of such temporary certificate shall not entitle the holder thereof to a permanent certificate, and no permanent certificate shall be issued to such holder until he passes a satisfactory examination by the board. Only one temporary certificate shall ever be issued to the same applicant, and no temporary certificate shall be granted to any person whose application has been denied by the board. The member or authorized inspector conducting the examination as herein set forth shall be entitled to charge and receive the sum of three dollars for such certificate, said moneys to be paid to the board of pharmacy. [Amendment approved April 21, 1909. Stats. 1909, p. 1016.]

Also amended in 1907, Stats. 1907, p. 769.

§ 15. It shall be the duty of all registered pharmacists who take into their employ an apprentice, whose purpose it is to become a pharmacist, to report to the board of pharmacy such facts regarding his schooling and preliminary qualifications as the board of pharmacy may require for the purpose of registration as an apprentice. The board of pharmacy shall adopt a standard of qualifications regarding schooling and preliminary qualifications for all persons desiring to be registered as apprentices, as provided for in this section. The pharmaceutical experience of every apprentice shall, after the passage of this act, be deemed to begin on the date on which he began the study of pharmacy, and such date shall be inserted in the certificate of registration of said apprentice, provided the preliminary qualifications have been found satisfactory by the board. Sworn testimony shall be furnished the board upon which they shall determine the date as aforesaid. The date so determined and entered as aforesaid shall be deemed to be the beginning of the applicant's pharmaceutical experience for the purpose of this act; provided, that the students matriculating and attending any reputable college of pharmacy shall be registered as apprentices upon such fact being shown. The board shall keep a register for the registration of apprentices and furnish upon application proper blanks for this purpose. No apprentice shall be permitted to sell drugs, medicines, or poisons, or compound prescriptions except under the direct, immediate and personal supervision of a registered pharmacist. No registered apprentice shall ever be left in charge of a pharmacy. No applicant for registration as an apprentice shall be registered as such if such applicant has had more than three years' experience in a pharmacy, but must apply for registration as assistant pharmacist. [Amendment approved March 21, 1907. Stats. 1907, p. 770. In effect in sixty days.]

§ 16. The board of pharmacy shall issue a permit to general dealers in rural districts in which the conditions, in their judgment, do not justify the employment of a registered pharmacist, and where the store of such general dealer is not less than three miles distant from the store of a registered pharmacist; which said permit shall authorize the persons or firm named therein to sell in such locality, but not elsewhere, and under such restrictions and regulations as said board may from time to time adopt, the following simple household remedies and drugs, and no other, in such manner and form as may be hereafter authorized by said board, as follows, to wit:

Tincture of arnica, spirits of camphor, almond oil, distilled extract witch-hazel, paregoric, syrup of ipecac, syrup of rhubarb, hive syrup, sweet spirits of nitre, tincture of iron, epsom salts, rochelle salts, senna leaves, carbonate of magnesia, seidlitz powders, quinine, cathartic pills, chamomile flowers, caraway seed, chlorate of potash, moth balls, plasters, salves, ointments, peroxide of hydrogen, copperas, gum camphor, blue ointment, asafoetida, saffron, anise seed, saltpetre.

The board shall charge an annual fee of eight dollars in advance for such permit, and it shall be unlawful for any dealer to sell any drugs or ordinary household remedies without complying with the requirements

of this section. Whenever a registered pharmacist shall establish a pharmacy within three miles by the shortest road from the place of business of such general dealer, no further license shall be granted, and the license already issued shall be void, provided that, the following drugs, medicines and chemicals may be sold by grocers and dealers generally without restriction, viz.:

Glauber salts, vaseline, turpentine, condition powders, cream of tar, carbonate of soda, bay rum, essence of Jamaica ginger, essence of peppermint, ammonia, alum, castor oil, bicarbonate of soda, chloride of lime, glycerine, witch-hazel, sheep dip, borax, sulphur, blue-stone, flaxseed, insect powder, fly paper, ant poison, squirrel poison, and gopher poison, and arsenical poisons used for orchard spraying, when prepared and sold only in original and unbroken packages and labeled with the official poison labels. [Amendment approved April 21, 1909. Stats. 1909, p. 1016.]

Also amended in 1907, Stats. 1907, p. 770.

§ 17. It shall be the duty of the board of pharmacy, by resolution, at least annually to request of the chief of police, marshal or constable of every city, town or township in this state, to furnish a list of all drug-stores, together with the names of the owners, managers, and all employees in said stores, and a brief statement of the capacity in which said persons are employed in said stores, and also the firm name of all stores retailing drugs, medicines or poisons. Upon such request in writing, it shall be the duty of the chief of police, marshal, or constable of said city, town or township to require the patrolmen or deputies under their command, upon their respective beats, to obtain such lists as are in this section specified, and deliver the same to the board of pharmacy. It shall be the duty of the owner or manager of any drugstore or other store retailing drugs, medicines or poisons when called upon by an officer as above set forth, or by a member of the board of pharmacy, or a duly authorized inspector, to furnish said officer, member of the board of pharmacy or duly authorized inspector with the information required. Any person refusing to furnish the information, or willfully furnishing information that is false or untrue shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than twenty dollars nor more than fifty dollars, or by imprisonment for not less than ten days and not more than thirty-five days, or by both such fine and imprisonment. [Amendment approved March 21, 1907. Stats. 1907, p. 770. In effect in sixty days.]

§ 18. The several penalties prescribed in this act may be recovered in any court having jurisdiction, by a civil action instituted by the board of pharmacy, in the name of the state of California, or by criminal prosecution upon complaint being made; and it shall be the duty of the district attorney of the county wherein violations of the provisions of this act occur, to conduct all such actions and prosecutions at the request of the board.

§ 19. All persons registered under this act shall be exempt and free from jury duty.

§ 20. This act shall take effect July 1, 1905, and all laws in conflict with this act, in and so far as they conflict), are hereby repealed.

The title of the amendatory act of April 21, 1909, stated that it also amended §§ 4, 5, and 6, but the body of the act did not contain such amendments. Act regulating sale of poisons: See Stats. 1907, p. 124.

ACT 2665.

An act to regulate the work and hours of employees engaged in selling, at retail, drugs and medicines, and compounding physicians' prescriptions, and providing a penalty for the violation thereof.

[Approved February 28, 1905. Stats. 1905, p. 28.]

Amended 1907, p. 272.

§ 1. As a measure for the protection of public health, no person employed by any person, firm or corporation, shall for more than an average of ten hours a day or sixty hours a week of six consecutive calendar days, perform the work of selling drugs or other medicines, or compounding physicians' prescriptions, in any store, establishment or place of business, where and in which drugs or medicines are sold, at retail, and where and in which physicians' prescriptions are compounded; provided, that the answering of and attending to emergency calls shall not be construed as a violation of this act.

§ 2. No person, firm or corporation employing another person to do work which consists wholly or in part of selling, at retail, drugs or medicines, or of compounding physicians' prescriptions, in any store, or establishment or place of business where or in which medicines are sold and where and in which physicians' prescriptions are compounded shall require or permit said employed person to perform such work for more than an average of ten hours a day, or sixty hours a week of six consecutive calendar days.

§ 3. Any person, firm or corporation violating any of the provisions of this act shall be deemed guilty of misdemeanor and shall be punished therefor by a fine not less than twenty dollars nor more than fifty dollars, or by imprisonment for not exceeding sixty days, or by both such fine and imprisonment, at the discretion of the court.

§ 4. All acts or parts of acts inconsistent with the provisions of this act are hereby repealed.

§ 5. The commissioners of the state bureau of labor statistics are hereby authorized, directed and empowered to enforce the provisions of this act. [Amendment approved March 15, 1907. Stats. 1907, p. 273.]

ACT 2666.

To regulate the practice of pharmacy and sale of poisons in the state of California. [Approved March 11, 1891. Stats. 1891, p. 86.]

Amended 1898, p. 68. Repealed 1901, p. 804.

ACT 2667.

An act to regulate the practice of pharmacy and sale of poisons in the state of California. [Stats. 1901, p. 299.]

Probably superseded by act of 1905, p. 535, to regulate the practice of pharmacy: See ante, Act 2664.

Superseded by 1905, p. 535, and Penal Code, § 847a (1905, p. 765). See 1907, p. 124.

PHYSICIANS.

See tit. "Medicine," ante.

TITLE 380.**PILOTS.****ACT 2672.**

To provide for the appointment of pilots at the port of Wilmington and the bay of San Pedro, and defining their duties and compensation. [Stats. 1889, p. 416.]

TITLE 381.**PITT RIVER.****ACT 2677.**

To provide for removing obstructions in. [Stats. 1901, p. 808.]

ACT 2678.

To provide for removal of obstructions in, above the mouth of Hat Creek, so as to enable salmon to reach the spawning grounds on the upper waters of said river and its tributaries. [Stats. 1880, p. 104.]

TITLE 382.**PLACER COUNTY.****ACT 2683.**

Trespassing of animals in certain townships. [Stats. 1875-76, p. 542.]

Modified, if not repealed, by the estray law of 1897, p. 198, and 1901, p. 603.

ACT 2684.

Providing for location, construction, and maintenance of highways. [Stats. 1871-72, p. 142.]

Repealed 1888, p. 5, c. X, § 2.

ACT 2685.

Providing for the location and better maintenance of roads and highways. [Stats. 1873-74, p. 833.]

Repealed 1888, p. 5, c. X, § 2.

ACT 2686.

Roads and highways in. [Stats. 1875-76, p. 413.]

Amended 1877-78, p. 115. Repealed 1883, p. 5, c. X, § 2.

ACT 2687.

Notaries public, additional for. [Stats. 1871-72, p. 33.]
Superseded by Political Code, § 791.

ACT 2688.

County recorder, salary of. [Stats. 1873-74, p. 702.]
Repealed 1877-78, p. 269.

ACT 2689.

Recorder of, fees and compensation of. [Stats. 1877-78, p. 268.]
Repealed by County Government Act 1897, p. 527, § 177, and fee bill of 1895, p. 267.

ACT 2690.

Legalizing records of. [Stats. 1863-64, p. 84.]

ACT 2691.

Consolidating offices of sheriff and tax collector, and making the sheriff
ex officio tax collector. [Stats. 1873-74, p. 709.]
Repealed by County Government Act: See 1897, p. 452.

ACT 2692.

Supervisors, regulating powers of. [Stats. 1877-78, p. 197.]
Repealed by County Government Act: See 1897, p. 452.

ACT 2693.

Reorganizing board of supervisors in. [Stats. 1873-74, p. 347]
Amended and supplemented 1873-74, p. 775; 1875-76, p. 578. Act of 1873-
74, p. 775, repealed 1875-76, p. 578.

TITLE 383.
PLACERVILLE.

ACT 2697.

Authorizing common council to issue certain bonds. [Stats. 1863, p.
166.]
Citations. Cal. 147/162.

ACT 2698.

Reincorporating. [Stats. 1863, p. 211.]
Amended 1868-64, p. 498; 1871-72, p. 431.
Citations. Cal. 147/163.

ACT 2699.

Raceway through, extending time for construction of. [Stats. 1877-78,
p. 83.]

ACT 2700.

Improvement of streets and sidewalks of. [Stats. 1875-76, p. 893.]

ACT 2701.

City clerk of, to execute certain trusts. [Stats. 1873-74, p. 706.]

Repealed 1873-74, p. 754.

This act was passed to carry into effect the act of Congress for the relief of inhabitants of towns on the public lands.

ACT 2702.

City clerk to execute certain trusts. [Stats. 1873-74, p. 754.]

Repealed 1875-76, p. 828.

This act was passed to carry out the provisions of the act of Congress for the relief of inhabitants of towns upon the public lands.

ACT 2703.

Charles F. Irwin appointed a trustee to execute certain trusts. [Stats. 1875-76, p. 328.]

Amended 1877-78, p. 352.

This act provided for the carrying out of the grant by the United States government to the city for the benefit of the occupants.

ACT 2704.

An act concerning common schools in the city of Placerville. [Approved April 1, 1864. Stats. 1863-64, p. 303.]

Repealed 1909, p. 80.

ACT 2705.

An act supplementary to and amendatory of an act entitled "An act concerning common schools in the city of Placerville, approved April first, eighteen hundred and sixty-four," to provide ways and means for building, furnishing, and repairing schoolhouses in said city, and for other purposes. [Approved March 16, 1874. Stats. 1873-74, p. 386.]

Repealed 1909, p. 80.

TITLE 384.**PLUMAS COUNTY.****ACT 2708.**

Fixing salary of district attorney of. [Stats. 1871-72, p. 733.]

Repealed by County Government Act, 1897, p. 565, § 206.

ACT 2709.

Concerning highways. [Stats. 1871-72, p. 65.]

Repealed 1873-74, p. 306.

ACT 2710.

Additional notaries in. [Stats. 1871-72, p. 304.]

Superseded by Political Code, § 791.

This act provided for an additional notary to reside at Mohawk Valley.

ACT 2711.

In relation to certain officers of, and to fix their compensation. [Stats. 1877-78, p. 547.]

"Repealed by County Government Acts, see 1897, p. 565, § 206; never went into effect. (Whiting v. Haggard, 60 Cal. 513; People ex rel. Orr v. Whiting, 64 Cal. 67.)"—Code Commissioners' Note.

ACT 2712.

Roads in, keeping in repair. [Stats. 1875-76, p. 6.]
Superseded 1888, p. 5, c. X, § 2.

ACT 2713.

Tax collector of, fees of. [Stats. 1873-74, p. 382.]
Repealed by County Government Acts, see 1897, pp. 566, 572, §§ 206, 215.

TITLE 385.**PLYMOUTH.****ACT 2718.**

To prevent hogs and goats from running at large in Plymouth, Amador County. [Stats. 1877-78, p. 1020.]
Probably repealed, 1897, p. 198.

TITLE 386.**POISONS.****ACT 2723.**

To regulate the sale of certain poisonous substances. [Stats. 1880, p. 102.]
Codified by § 847a of Penal Code, 1905: See note to § 347a, Penal Code.
Act regulating sale of poisons: See Acts 2664, 2666, 2667, ante.
"See, also, 1891, p. 88; 1901, p. 802; 1905, p. 585; 1907, p. 124. Penal Code, § 847a (1905, p. 765)."—Code Commissioners' Note.

ACT 2724.

An act to regulate the sale of poisons in the state of California and providing a penalty for the violation thereof. [Approved March 6, 1907. Stats. 1907, p. 124.]
Amended 1909, p. 422.
This act appears in full in Penal Code, Appendix, p. 888.
Citations. App. 8/564, 565.

TITLE 387.**POLICE.****ACT 2728.**

To regulate the hours of service by members of the police department of cities of the first class and of cities and counties. [Stats. 1901, p. 107.]
Gen. Laws—61

ACT 2729.

Regulating the hours of service on regular duty by members of the police department of cities of the first class, cities and counties, cities of the first and one half class, and cities of the second class. [Stats. 1903, p. 51.]

This act appears in full in Penal Code, Appendix, p. 853.

ACT 2730.

To increase the police force of various cities, cities and counties and towns. [Stats. 1891, p. 10.]

This act appears in full in the Appendix to the Penal Code, p. 851.

ACT 2731.

Providing for the compensation of chief and captain of police and police officers in cities having not less than ten thousand nor more than twenty-five thousand inhabitants. [Stats. 1893, p. 280.]

Unconstitutional: *Darcy v. Mayor of San Jose*, 104 Cal. 642.

ACT 2732.

To regulate the salaries of certain officers of the police department in municipalities of the first class and to provide for the appointment and salaries of other officers. [Stats. 1897, p. 72.]

Unconstitutional: *Popper v. Broderick*, 123 Cal. 456.

ACT 2733.

Requiring boards of commissioners having control of the police force to grant yearly vacations. [Stats. 1891, p. 47.]

Amended 1907, p. 62.

This act appears in full in the Appendix to the Penal Code, p. 852.

ACT 2734.

To provide for the appointment of policemen, with the powers of peace officers, to serve upon the premises, cars or boats of railroad and steamship companies. [Stats. 1901, p. 666.]

This act appears in full in Penal Code, Appendix, p. 854.

ACT 2735.

Creating police relief, health, life insurance, and pension fund. [Stats. 1889, p. 56.]

Amended 1891, pp. 287, 469; 1897, p. 52.

Citations. Cal. 80/267, 268, 269, 270; 127/551, 552; 184/51. App. 1/495, 496.

This act appears in full in the Appendix to the Penal Code, p. 844.

"See *Pennie v. Reis*, 132 U. S. 464."—Code Commissioner's Note.

ACT 2736.

An act relating to senior rights of members of paid police departments of counties, cities and counties, cities or towns. [Approved February 23, 1907. Stats. 1907, p. 46.]

This act appears in full in Penal Code, Appendix, p. 854. It relates to the senior rights in the assignment of duty of officers who have served ten years in the department.

ACT 2737.

An act providing that, in any city of the first class or city and county in this state, where by general law or by charter the board of police commissioners of such city, or city and county are authorized and empowered to appoint, promote, suspend, disrate or dismiss any police officer or member of the police department, and to prescribe rules and regulations for the government, discipline, equipment and uniform of such police department, and from time to time to alter or repeal the same, and to prescribe penalties for the violations of any such rules and regulations, all such rules and regulations must be reasonable and couched in plain and concise language, and providing that such board of police commissioners shall prescribe a separate and distinct penalty for the violation of each of such rules and regulations which shall be graded according to the importance and nature of the rule or regulation violated, and providing that such penalty shall in all cases be reasonable, and that the same shall be couched in plain and concise language, and printed or published, as the case may be, in the manual or guide published for the guidance and information of the police officers or members of such police department and in connection with the rule or regulation to which the same is intended to apply, and providing further that such board of police commissioners shall not have power to inflict unreasonable penalties for the violation of such rules and regulations; nor to inflict penalties for the violation of such rules and regulations arbitrarily, nor unless justified by proper and competent evidence, also providing certain procedure in hearings for the violation of such rules and regulations, and that courts of competent jurisdiction may review the proceedings had upon such hearings for certain purposes, and that all acts and parts of acts in conflict herewith are hereby repealed. [Approved March 23, 1907. Stats. 1907, p. 993.]

TITLE 388.

POLICE COURTS.

ACT 2739.

To provide for police courts in cities having more than thirty thousand and less than one hundred thousand inhabitants. [Stats. 1885, p. 213.]

Amended 1891, p. 292; 1898, p. 41; 1895, p. 118.

Citations. Cal. 78/488, 504, 505, 506; 76/489, 440, 441, 442, 445, 447, 449, 450, 452, 454; 78/565; 82/841, 843; 89/472, 473; 92/279; 109/265; 114/384; 120/384, 395.

AMDT. 1891.

Citations. Cal. 109/265.

ACT 2740.

To provide for police courts in cities having a population of fifteen thousand and under eighteen thousand inhabitants. [Stats. 1891, p. 433.]

Unconstitutional: *Ex parte Giambonini*, 117 Cal. 578.

ACT 2741.

An act to establish police courts in cities of the first and one-half class, to fix their jurisdiction and provide for officers of said courts and fix the compensation of certain officers thereof.

[Became a law under constitutional provision without governor's approval, March 5, 1901. Stats. 1901, p. 95.]

Amended 1903, pp. 820, 835; 1905, p. 41; 1907, pp. 186, 850; 1909, pp. 435, 797.

Citations. Cal. 153/164, 167, 169.

§ 1. The judicial power of every city of the first and one-half class shall be vested in a police court to be held therein by the city justices of such city, or one of them. Either one of said justices may hold such court, and there may be as many sessions of said court at the same time as there are city justices in such city, and it is hereby made the duty of said city justices, in addition to the duties now required of them by law, to hold said police court, as judges thereof.

§ 2. Said police court shall have exclusive jurisdiction of all misdemeanors punishable by fine or by imprisonment, or by both such fine and imprisonment, committed in the city where such police court is held; and in all such cases to try and determine the same, convict or acquit, pass and enter judgment and carry such judgment into execution as the case may require, according to law.

§ 3. The said court shall also have exclusive jurisdiction of all proceedings for violation of any ordinance of said city, both civil and criminal, and of all actions for the collection of any licenses required by the ordinances of said city.

§ 4. Neither of said justices shall sit in cases in which he is a party, or in which he is interested, or where he is related to either party by consanguinity or affinity within the third degree; and in case of the sickness or inability of said justices, or either of them, either of said justices may call in any justice of the peace of the county to act in his place or stead.

§ 5. Each of the city justices, while acting as judge of said police court, shall have jurisdiction to issue warrants of arrest, search-warrants, subpoenas, and all other processes necessary to the full and proper exercise of the powers and jurisdiction of said court; to punish persons guilty of contempt of said court; to try all charges of misdemeanor offenses committed within its jurisdiction, as well as all charges for violation of city ordinances, and render judgment therein, with full power to carry such judgment into execution.

§ 6. Said police court shall have a clerk for each of the judges of said court, who shall be appointed by the judge of the said court residing in the department thereof in which the said clerk is to act, which said clerk shall hold office for the term of four years from the date of appointment. Each of said clerks shall give a bond in the sum of five thousand dollars, with at least two sureties, to be approved by the mayor, conditioned for the faithful discharge of the duties of his office. Each of said clerks shall receive an annual salary of twenty-one hundred dollars a year, payable in equal monthly installments out of the treasury of said city, which salary shall be full compensation for all services rendered by him. Each of the said clerks shall keep a record of the proceedings of, and issue all processes ordered by, the city justices, or either of them, or by said police court, and receive and pay into the city treasury all fines imposed by said court. They shall also render each month to the city council an exact and detailed account under oath of all fines imposed and collected, and of all fines imposed and uncollected since their last reports. They shall prepare bonds, justify bail when the amount has been fixed by either of said justices or by said police court, and may administer and certify oaths. Said clerks shall remain at the courtrooms of said court during the business hours and during such reasonable times thereafter as may be necessary for a proper performance of their duties. Before receiving any monthly payment of salary each of said clerks shall make and file with the city auditor an affidavit that he has deposited with the city treasurer all moneys that have come into his hands, belonging to the city. Any violation of this provision shall be a misdemeanor. [Amendment approved March 31, 1909. Stats. 1909, p. 797. In effect immediately.]

Also amended in 1907, Stats. 1907, p. 186.

§ 7. Said police court shall have a prosecuting attorney and three assistant prosecuting attorneys and one stenographer, all of whom shall be appointed by the district attorney of the county in which said city is situated. Said prosecuting attorney shall receive an annual salary of twenty-seven hundred and fifty dollars, which shall be paid in equal monthly installments out of the treasury of said city, which salary shall be in full compensation for all services rendered by him; and said three assistant prosecuting attorneys shall receive an annual salary of twenty-four hundred dollars each, which shall be paid in equal monthly installments out of the treasury of said city, which salaries shall be in full compensation for all services rendered by them; and said stenographer shall receive an annual salary of twelve hundred dollars, which shall be paid in equal monthly installments out of the treasury of said city, which salary shall be in full compensation for all services rendered by him. It shall be the duty of said prosecuting attorney and said assistant prosecuting attorneys to attend the sessions of said police court and conduct on behalf of the people, all prosecutions for public offenses, both misdemeanors and felonies, of which said court has jurisdiction; except criminal cases arising upon violation of the provisions of the city charter or ordinances, which shall be prosecuted by said prose-

cuting attorney and assistants when requested by the city attorney of said city, who may deputize said prosecutors for such purposes. [Amendment approved March 22, 1907. Stats. 1907, p. 850.]

§ 8. All fines and other moneys collected on behalf of the city in the police court shall be paid into the city treasury on the first Tuesday of each month.

§ 9. The city council shall furnish suitable rooms for the holding of said police court and shall also furnish the necessary dockets, blanks, stationery, and supplies for the carrying on of the business of said courts. One docket shall be styled "The City Criminal Docket," in which all the criminal business of said court shall be recorded, and each case shall be alphabetically indexed. Another docket shall be styled "The City Civil Docket," and it shall contain each and every civil case in which the city is a party, or which is prosecuted or defended for her interest; and each case shall be properly indexed.

§ 10. The police court shall be always open, except upon nonjudicial days, and then for such purposes only as by law permitted or required of other courts of this state.

§ 11. Appeals may be taken from any judgment of said police court to the superior court of the county in which such city may be located, in the same manner in which appeals are taken from the justices' courts in like cases.

§ 12. In all cases of the conviction in said police court of any person charged with any offense committed in the city, and the imprisonment of any person so convicted, the person so to be imprisoned or by ordinance required to labor, shall be imprisoned in the city jail, or in a branch thereof, or, if required to labor shall labor in the city, and the imprisonment in any branch city jail shall be deemed an imprisonment in the city jail. [Amendment approved March 19, 1909. Stats. 1909, p. 436. In effect immediately.]

§ 13. Said courts shall have a seal, to be furnished by the city.

§ 14. The city justices shall, on the first Tuesday of each month, make to the city council a full and complete report of all the cases, civil and criminal, in which the city has an interest, or which are required to be entered in the city civil docket or the city criminal docket; such report to be made upon blanks furnished by the city council and in such form as they may require.

§ 15. Certified transcripts of the dockets or files of said court, certified by the clerk of said court under the seal of said court, shall be evidence in any court of this state of the contents of said docket or of said files, as the case may be; and all warrants and other process issued out of said court and all acts done by said court and certified under its

seal, shall have the same force and validity in any part of this state as though issued or done by any court of record of this state.

§ 16. This act shall take effect and be in force from and after its passage.

ACT 2742.

An act to establish police courts in cities of the second class, to fix their jurisdiction, and provide for officers of said courts, and fix the compensation of certain officers thereof. [Approved March 23, 1901. Stats. 1901, p. 576.]

Amended 1905, p. 684; 1907, p. 748; 1909, p. 975.

§ 1. The judicial power of every city of the second class shall be vested in a police court to be held therein by the city justices of such city, or one of them. Either one of said justices may hold such court, and there may be as many sessions of said court at the same time as there are city justices in such city, and it is hereby made the duty of said city justices, in addition to the duties now required of them by law, to hold said police court, as judges thereof.

§ 2. Said police court shall have exclusive jurisdiction of all misdemeanors punishable by fine or by imprisonment, or by both such fine and imprisonment, committed in the city where such police court is held; and in all such cases, to try and determine the same, convict or acquit, pass and enter judgment and carry such judgment into execution as the case may require, according to law.

§ 3. The said court shall also have exclusive jurisdiction of all proceedings for violation of any ordinance of said city, both civil and criminal, and of all actions for the collection of any licenses required by the ordinances of said city.

§ 4. Neither of said justices shall sit in cases in which he is a party, or in which he is interested, or where he is related to either party by consanguinity or affinity within the third degree; and in case of the sickness or inability of said justices, or either of them, either of said justices may call in any justice of the peace of the county to act in his place or stead.

§ 5. Each of the city justices, while acting as judge of said police court, shall have jurisdiction to issue warrants of arrest, search-warrants, subpoenas, and all other processes necessary to the full and proper exercise of the powers and jurisdiction of said court; to punish persons guilty of contempt of said court; to try all charges of misdemeanor offenses committed within its jurisdiction, as well as all charges for violation of city ordinances, and render judgment therein, with full power to carry such judgment into execution.

§ 6. Said police court shall have a clerk for each of the judges of said court, who shall be appointed by the judge of the said court pre-

siding in the department thereof in which the said clerk is to act, which said clerks shall hold office for the term of two years from the date of appointment. Each of said clerks shall give a bond in the sum of five thousand dollars, with at least two sureties, to be approved by the mayor of said city, conditioned for the faithful discharge of the duties of his office. Each of said clerks shall receive an annual salary of one thousand eight hundred dollars a year, payable in equal monthly installments out of the treasury of said city, which salary shall be the full compensation for all services rendered by him. Each of the said clerks shall keep a record of the proceedings of, and issue all processes ordered by, the city justices, or either of them, or by said police court, and receive and pay into the city treasury all fines imposed by said court. They shall also render each month to the city council an exact and detailed account under oath of all fines imposed and collected, and of all fines imposed and uncollected since their last reports. They shall prepare bonds, justify bail when the amount has been fixed by either of said justices or by said police court, in cases not exceeding one hundred dollars, and may administer and certify oaths. Said clerks shall remain at the courtrooms of said court during the business hours and during such reasonable times thereafter as may be necessary for a proper performance of their duties. Before receiving any monthly payment of salary each of said clerks shall make and file with the city auditor an affidavit that he has deposited with the city treasurer all moneys that have come into his hands, belonging to the city. Any violation of this provision shall be a misdemeanor.

§ 7. [Amended 1905, p. 634; 1907, p. 748. Repealed 1909, p. 975.]

§ 8. All fines and other moneys collected on behalf of the city in the police court shall be paid into the city treasury on the first Tuesday of each month.

§ 9. The city council shall furnish suitable rooms for the holding of said police court and shall also furnish the necessary dockets, blanks, stationery, and supplies for the carrying on of the business of said courts. One docket shall be styled "The City Criminal Docket," in which all the criminal business of said court shall be recorded, and each case shall be alphabetically indexed. Another docket shall be styled "The City Civil Docket," and it shall contain each and every civil case in which the city is a party, or which is prosecuted or defended for her interest; and each case shall be properly indexed.

§ 10. The police court shall be always open, except upon nonjudicial days, and then for such purposes only as by law permitted or required of other courts of this state.

§ 11. Appeals may be taken from any judgment of said police court to the superior court of the county in which such city may be located, in the same manner in which appeals are taken from the justices' courts in like cases.

§ 12. In all cases of imprisonment of persons convicted in said police court of any offense committed in the city, the person so to be imprisoned, or by ordinance required to labor, shall be imprisoned in the city jail, or, if required to labor, shall labor in the city.

§ 13. Said courts shall have a seal, to be furnished by the city.

§ 14. The city justices shall, on the first Tuesday of each month, make to the city council a full and complete report of all the cases, civil and criminal, in which the city has an interest, or which are required to be entered in the city civil docket or the city criminal docket, such report to be made upon blanks furnished by the city council and in such form as they may require.

§ 15. Certified transcripts of the dockets or files of said court, certified by the clerk of said court under the seal of said court, shall be evidence in any court of this state of the contents of said docket or of said files, as the case may be; and all warrants and other process issued out of said court and all acts done by said court and certified under its seal, shall have the same force and validity in any part of this state as though issued or done by any court of record of this state.

§ 16. This act shall take effect and be in force from and after the thirtieth day of March, A. D. nineteen hundred and one.

ACT 2743.

An act to provide for prosecuting attorneys of police courts in cities of the second class, and regulating the compensation of such officers.

[Approved March 23, 1901. Stats. 1901, p. 664.]

§ 1. The police court in all cities of the second class shall have a prosecuting attorney, to be appointed by the district attorney of the county in which said city is situated, who shall hold office for the period of four years from the date of his appointment. He shall receive an annual salary of two thousand (2,000) dollars, payable in equal monthly installments, out of the treasury of said city, which salary shall be in full compensation for all services rendered by him. It shall be the duty of said prosecuting attorney to attend the sessions of said court, and conduct on behalf of the people all prosecutions for public offenses of which said court has jurisdiction.

§ 2. All other acts or parts of acts in conflict herewith are hereby repealed.

§ 3. This act shall be in full force and effect from and after its passage.

ACT 2744.

An act providing for the appointment of police judges in municipalities having a freeholders' charter, wherein provision is made for a police

court judge, but no provision is made for the appointment or election of such police judge.

[Approved February 23, 1907. Stats. 1907, p. 54.]

§ 1. That in all municipalities having a freeholders' charter, which provides for a police court to be presided over by a police judge but makes no provision for the election or appointment of a police judge, the board of trustees or council of such municipalities shall have authority to make an appointment to fill such office.

§ 2. The person so appointed must be an elector of the municipality and shall hold office during the existence of the board of trustees or council appointing him and until his successor in office shall have been appointed and qualified.

§ 3. All acts or portions of acts in conflict with this act are hereby repealed.

§ 4. This act shall take effect immediately.

TITLE 389.

POULTRY.

ACT 2748.

An act to establish a poultry experiment station in the county of Sonoma, and making an appropriation therefor.

[Approved March 13, 1903. Stats. 1903, p. 143.]

§ 1. There is hereby established in the county of Sonoma, at or near the city of Petaluma, a poultry experiment station, to be known as the "California Poultry Experiment Station."

§ 2. The purposes of said station shall be the study of the diseases of poultry to ascertain the causes of such diseases, and to recommend treatment for the prevention and cure of the same; to ascertain the relative value of poultry foods for the production of flesh, fat, eggs, and feathers; to recommend methods of sanitation, and to conduct investigations for the purpose of securing results conducive to the promotion of the poultry interests of the state. This act shall be liberally construed to the end that the station hereby established may at all times contribute to the technical and general knowledge of the public upon the subject of poultry husbandry.

§ 3. The said station shall be under the supervision of the director of the agricultural experiment stations of the state of California, who shall, from time to time, cause to be issued bulletins of information regarding the care of poultry.

§ 4. Within thirty days after the passage of this act the governor shall appoint three persons, two of whom shall be from the staff or professors in the agricultural department of the University of California,

and one a practical poultry-raiser, which said persons shall constitute a board or commission to select and secure a site of not less than five acres for such poultry experiment station. Such board shall have full power to secure such site, by lease, purchase, or donation thereof, and shall proceed to the performance of the duties herein imposed within thirty days after receiving notice of their appointment.

§ 5. All moneys appropriated for the use of the station hereby established shall be under the control of the regents of the University of California.

§ 6. The sum of five thousand dollars is hereby appropriated out of any money in the state treasury, not otherwise appropriated, for securing the necessary site, and for equipping and maintaining said California poultry experiment station as provided by this act. Of the amount herein appropriated, the sum of two thousand five hundred dollars shall be available during the fiscal year nineteen hundred three and nineteen hundred four, and two thousand five hundred dollars shall be available during the fiscal year nineteen hundred four and nineteen hundred five.

§ 7. The state controller is hereby authorized to draw his warrants for the sum herein appropriated in favor of the treasurer of the regents of the University of California, and the state treasurer is hereby directed to pay the same.

§ 8. This act shall take effect immediately.

TITLE 390.

PRESTON SCHOOL OF INDUSTRY.

ACT 2753.

To establish the Preston School of Industry, and to provide for the management and maintenance of the same. [Stats. 1889, p. 100.]

Amended 1893, p. 39; 1909, p. 964.

In full in Appendix to Penal Code, p. 858.

Citations. Cal. 110/653; 136/108; 138/498, 494, 495.

ACT 2754.

To provide for the purchase of additional land for. [Stats. 1897, p. 422.]

ACT 2755.

To prevent evil-disposed persons from coming upon the grounds of the Whittier State School or the Preston School of Industry. [Stats. 1895, p. 92.]

Codified by §§ 171a, 171b, 171c, Penal Code: See § 171a, Penal Code, note.

ACT 2756.

Relating to the commitments to the state school at Whittier, and to the Preston School of Industry; fixing the authority to examine and commit to such schools with the superior court judges of the counties and fixing the responsibilities from which commitments are

made to the state for maintenance of the persons committed therefrom; providing the manner of payment thereof and fixing the responsibility of the parents to the counties from which their children are committed. [Stats. 1895, p. 122.]

In full in Appendix to Penal Code, p. 884.

ACT 2757.

An act to authorize the trustees of the Preston School of Industry and the Whittier State School to acquire property by gift, bequest or devise. [Approved March 6, 1909. Stats. 1909, p. 149.]

**TITLE 391.
PRISONS.****ACT 2760.**

To provide for a branch state prison at Folsom. [Stats. 1873-74, p. 785.]

See Stats. 1889, p. 404.

ACT 2761.

For the government of the state prison convicts and to provide for the location of a branch prison. [Stats. 1858, p. 295.]

ACT 2762.

Regulating and governing state prison. [Stats. 1875-76, p. 832.]

"Repealed by the constitution of 1879. See 1880, p. 67, c. LXXI; 1889, p. 404."—Code Commissioner's Note.

ACT 2763.

To regulate and govern the state prisons. [Stats. 1889, p. 404.]

Amended 1905, pp. 520, 724.

Codified by §§ 1572 et seq. of Penal Code: See Penal Code, § 1572, note. Citations. Cal. 145/186, 187, 188, 189.

ACT 2764.

Concerning conveyances. [Stats. 1862, p. 496.]

This act provided for the acknowledgments of deeds and instruments by prisoners. Compare § 675, Penal Code.

ACT 2765.

To provide for the erection and operation of rock-crushing plants at the state prisons, for the preparation of highway material for the benefit of the people of the state and providing for the necessary advances and appropriation of money to carry out said work. [Stats. 1895, p. 274.]

This act appears in full in Penal Code, Appendix, p. 887.

ACT 2766.

Authorizing the state board of prison directors to purchase California-grown hemp to be used in the manufacture of grain bags, and to fix the price at which such bags shall be sold. [Stats. 1901, p. 515.]

This act appears in full in Penal Code, Appendix, p. 893.

ACT 2767.

Providing for furnishing to sheriffs and chiefs of police of certain information, descriptions and photographs of convicts about to be discharged from state prison. [Stats. 1897, p. 213.]

Repealed 1905, p. 532.

See Act 739, ante.

ACT 2768.

Providing for the confinement of prisoners of the United States. [Stats. 1856, p. 29.]

Supplemented 1863-64, p. 24. Superseded by Penal Code, § 1601.

ACT 2769.

To provide for the erection at Folsom State Prison of a building for the accommodation of the insane prisoners and making an appropriation therefor. [Stats. 1903, p. 519.]

(See 1905, pp. 229, 746.)

ACT 2770.

To provide for the erection at San Quentin of a building to accommodate insane prisoners. [Stats. 1889, p. 419.]

Repealed 1893, p. 148.

ACT 2771.

To provide for the construction of a sewerage system at the state prison at Folsom. [Stats. 1899, p. 29.]

ACT 2772.

To regulate and govern the operation of the rock-crushing plant at the Folsom State Prison, to provide for the sale of crushed rock and the disposition of the revenues derived therefrom. [Stats. 1897, p. 99.]

This act appears in full in Penal Code, Appendix, p. 890.

ACT 2773.

Directing the state prison directors of the state of California to employ at least twenty prisoners in the construction of roads to the state prisons at San Quentin and at Folsom. [Approved March 12, 1903. Stats. 1903, p. 127.]

This act can be found in the Appendix to the Penal Code, p. 896.

ACT 2774.

Directing the state prison directors to employ at least twenty prisoners in the construction of roads to the state prison at San Quentin. [Stats. 1893, p. 141.]

Probably superseded by the act of 1903, p. 127. See Act 2773, ante.

ACT 2775.

An act creating the office of matron of the jail or prison in and for cities and towns of the first, first and one-half, second, and third classes, wherein official matrons or their duties are not now provided for by law, defining the duties and powers and fixing the term of office and compensation of, and providing for the appointment of, and the giving of official bond by, such matron.

[Approved March 23, 1901. Stats. 1901, p. 573.]

§ 1. Public welfare and present necessity in the several cities and towns in this state of the first, first and one-half, second, and third classes, requiring that in such cities and towns there should be an official matron of the city or town jail or prison therein, the office of matron of the city or town jail or prison is hereby created in and for those several cities and towns in this state of the first, first and one-half, second, and third classes, and concerning which there is now no provision of law for the office of, or prescribing the duties of, matron of the jail or prison of such city or town; and the duties and powers of such matron in such cases shall be as follows: She shall have free access at all reasonable times to the immediate presence of all female prisoners in the jail or prison of which she is the official matron, including the right of personal visitation and conversation with them; and, in all cases of searching the person of female prisoners therein, such matron exclusively shall make such search; and the matron shall, by example, advice and admonition employ her best abilities at all times to secure and promote the health, welfare and reformation of all such prisoners. The term of office of such matron shall be two years from her appointment and qualification and until her successor is appointed and qualified.

§ 2. The legislative board or body of each such city or town, referred to in section 1 of this act, is hereby authorized and empowered to appoint, and to provide for the payment of the compensation of, a matron of the jail or prison in and for the city or town of which such board or body is the governing board or body, and to specify the conditions and fix the amount of the matron's official bond, to be approved by such board or body.

§ 3. The compensation of such matrons, hereby regulated in proportion to the duties to be discharged, shall be as follows, payable monthly: In and for such cities of the first class, seventy-five dollars per month; in and for such cities of the first and one-half class and of the second class, sixty-five dollars per month; in and for such cities of the third class, fifty dollars per month.

§ 4. To further the carrying into effect of the authority herein conferred and in furtherance of the discharge of the duties of such matrons, it is hereby enacted that no officer, deputy, policeman, constable, jailer, keeper, guard or person having charge or control of the jail or prison

of any such city or town, referred to in section 1 of this act, shall refuse the matron, duly appointed and qualified hereunder, free access at all reasonable times to the immediate presence of all female prisoners therein, including the right of visitation and conversation with them, or in such jail or prison allow the searching of the person, in the case of a female prisoner, to be made except by such matron of such jail or prison, or obstruct the performance by such matron of her official duties in such jail or prison as those duties may be specified under the authority of this act or of law.

§ 5. All acts and parts of acts inconsistent with this act are hereby repealed.

§ 6. This act shall take effect immediately.

Compare § 4226, Political Code.

ACT 2776.

An act to establish a state hospital for the care, custody and maintenance of insane convicts and certain other insane persons charged with the commission of a felony, near Folsom, California, and to provide for the government and management thereof, and to direct the expenditure of money heretofore appropriated by an act entitled "An act to provide for the erection at Folsom State Prison of a building for the accommodation of insane prisoners, and making an appropriation therefor," approved March 26, 1903, and declaring that the same may be used and expended for the purposes of this act, and making an additional appropriation of fifteen thousand dollars for certain improvements. [Approved March 18, 1905. Stats. 1905, p. 229.]

ACT 2777.

An act making an appropriation for the erection and construction of additional cells at the state prison at Folsom, the erection of a wall around said prison, the purchase of necessary cement, derricks and tools and other expenses incidental and relating to the purposes in this act mentioned. [Approved March 18, 1905. Stats. 1905, p. 178.]

ACT 2778.

An act making an appropriation for the erection and construction of additional cells at the state prison at San Quentin, for the purchase of powder, tools and appliances for excavating, the erection of machine-shops, the installation of a new pipe-line, the construction of iron tanks, the erection and extension of a wall around said prison, the purchase of electrical apparatus, and providing additional accommodations for prisoners at the state prison at San Quentin and for other expenses incidental and relating thereto. [Approved March 18, 1905. Stats. 1905, p. 203.]

Amended 1907, p. 978.

ACT 2779.

An act authorizing the state board of prison directors to provide for assisting discharged prisoners to secure employment and making an appropriation for the purpose of the act. [Approved April 14, 1909. Stats. 1909, p. 882.]

ACT 2780.

An act authorizing and directing the state board of prison directors to make an investigation and report to the governor of and relating to the cost, management and government of a reformatory institution in this state, and making an appropriation therefor. [Approved April 14, 1909. Stats. 1909, p. 876.]

TITLE 392.**PRIZE-FIGHTING.****ACT 2781.**

To prohibit prize-fighting. [Stats. 1893, p. 101.]

Superseded by Penal Code, § 412, as amended 1899, p. 153.

ACT 2782.

An act to prevent any minor under the age of eighteen years visiting any prize-fight, cock-fight, or place where any prize-fight or cock-fight is advertised or represented to take place and to provide a punishment therefor. [Approved April 17, 1909. Stats. 1909, p. 983.]

TITLE 393.**PROBATE COURTS.****ACT 2785.**

In relation to probate sales. [Stats. 1865-66, p. 824.]

This act ratified void sales of real estate. It was declared unconstitutional in *Pryor v. Downey*, 50 Cal. 388.

TITLE 394.**PROCESS.****ACT 2790.**

Execution of final process in new counties. [Stats. 1873-74, p. 365.]

Code commissioners say this act is superseded by § 687 of Code of Civil Procedure: See Code of Civil Procedure, § 687, note.

ACT 2791.

To declare valid writs, processes, and certificates issued by the superior courts and the clerks thereof, before the courts had been legally provided with seals. [Stats. 1880, p. 19.]

TITLE 395.
PROSTITUTION.

ACT 2796.

To prevent the placing, keeping, or leaving of married women in houses of prostitution. [Stats. 1891, p. 285.]

Codified by § 266g of Penal Code, 1905: See note to § 266g, Penal Code.
Citations. Cal. 116/77, 145/502; 150/117.

ACT 2797.

To prevent compulsory prostitution of women, and the importation of Chinese or Japanese women for immoral purposes, and to provide penalties therefor. [Stats. 1893, p. 217.]

Codified by § 266a et seq. of Penal Code, 1905: See note to § 266a, Penal Code.
See ante, Act 592.

TITLE 396.
PROTECTION DISTRICTS.

ACT 2802.

To protect lands not recognized as swamp lands, from overflow. [Stats. 1880, p. 55.]

Amended 1889, p. 366.

"Unconstitutional in some respects. (Hutson v. Protection District, 79 Cal. 90.) Probably superseded by 1895, p. 247."—Code Commissioners' Note.
This act provided for the formation of protection districts.

ACT 2803.

Providing for the dissolution and annulment of swamp and overflowed land reclamation and protection districts for nonuser of corporate powers. [Stats. 1899, p. 13.]

ACT 2804.

An act to provide for the formation of protection districts in the various counties of this state, for the improvement and rectification of the channels of innavigable streams and watercourses, for the prevention of the overflow thereof, by widening, deepening, and straightening and otherwise improving the same, and to authorize the boards of supervisors to levy and collect assessments from the property benefited to pay the expenses of the same. [Approved March 27, 1895. Stats. 1895, p. 247.]

Amended 1897, p. 219; 1903, p. 328; 1909, p. 807.

Probably superseded by the act of 1907, relating to the organization and formation of protection districts.

ACT 2805.

An act providing for the organization and government of districts for the protection of the lands of farming or other communities or neighborhoods within this state from overflow or damage from the waters of any innavigable stream, watercourse, canyon, or wash

extending by, through, or over such communities or neighborhoods, and to provide for the acquisition of lands, rights of way, and other property by purchase, gift, or condemnation, and for extending, straightening, locating, improving, and maintaining the channels of such streams, watercourses, canyons, or washes, and confining said waters in such channels and preventing the overflow thereof, and for the construction by such districts of the necessary works for said purposes.

[Approved February 23, 1907. Stats. 1907, p. 16.]

Amended 1907, p. 850.

Protection districts, organization.

§ 1. Whenever fifty, or a majority of the owners who are also the owners of a majority of the lands of any farming or other community or neighborhood within this state, which lands lie in one body and are liable to overflow or damage from the waters of any innavigable stream, watercourse, canyon, or wash extending by, through, or over such community or neighborhood, and may be protected by the same system of works, desire to provide for the protection of such lands from said damage, they may propose the organization of a protection district under the provisions of this act, and when so organized, such district shall have the powers, rights, and duties conferred, or which may be conferred by law upon such protection districts. The equalized county assessment-roll next preceding the presentation of a petition for the organization of a protection district under the provisions of this act, shall be prima facie evidence of ownership for the purposes of this act; provided, that no person who has received or acquired ownership of land within such proposed district for the purpose of enabling him or her to join in such petition or to become an elector of said district, shall be competent to sign such petition or vote at any election held for the purpose of its organization. Such illegal signing, however, shall not invalidate such petition when there shall be found a sufficient number of other legal petitioners.

Petition for formation of district. Bond. Publication.

§ 2. In order to propose the organization of a protection district, a petition shall be presented to the board of supervisors of the county in which the lands of the community or neighborhood and within the proposed district, or the greater portion thereof, are situated, signed by the required number of owners of lands within such proposed district, as above provided, which petition shall set forth and particularly describe the proposed boundaries of such district and the purposes of such organization, and shall pray that the same be organized under the provisions of this act. The petitioners must accompany the petition with a good and sufficient bond, to be approved by the said board of supervisors, in double the amount of the probable cost of organizing such district, conditioned that the obligors will pay all the cost in case such an organization will not be effected. The petition shall be presented at a regular meeting of said board of supervisors, and shall have

been published for at least two weeks before such presentation, in some newspaper of general circulation in said community or neighborhood and printed and published in the county where the petition is presented, together with a notice stating the date of the meeting of said board at which the petition will be presented; and if any portion of the proposed district lies within another county, or counties, then said petition and notice shall be likewise published in such a newspaper printed and published in each of such counties.

Board of supervisors, hearing on petition. Boundaries.

§ 3. When such petition is presented, the board of supervisors shall hear the same, together with any objections in writing which may have been made and filed with said board by any owner of land within such proposed district, and also may adjourn such hearing from time to time, not exceeding four weeks in all, and on the final hearing said board shall make such changes in the proposed boundaries as may be deemed advisable by them in carrying out the purposes of this act, and shall define and establish such boundaries; but said board shall not modify said boundaries so as to exclude from such proposed district any land liable to damage from the overflow of such waters, as hereinbefore stated; nor shall said board modify said boundaries so as to include within such proposed district lands not liable to be damaged by such overflow; nor shall said board modify said boundaries so as to include any lands not included within the boundaries proposed in said petition. Any owner of lands adjacent to the borders of said district may, by his written application therefor filed with said board on or before the time of the hearing of said petition, in the discretion of said board have such lands included within said proposed district. Upon such hearing of said petition, the board of supervisors shall determine whether or not said petition complies with the requirements and purposes of this act, and must hear all competent and relevant testimony offered in support or in opposition thereto. Such determination shall be entered upon the minutes of said board of supervisors.

Election precincts. Directors.

§ 4. When under the provisions of the preceding sections the boundaries of the proposed district shall be defined and established by said board, they shall make an order dividing said district into three or five divisions, as nearly equal in size as practicable, which divisions shall be numbered consecutively and constitute election precincts for said district, and one director, who shall be an elector and resident of the precinct for which he is elected, shall be elected as hereinafter provided, by each precinct; provided that when requested in the petition, three directors, who shall be residents, and electors, of the district, shall be elected at large by the qualified electors of the district.

Notice of election. Publication. Ballots.

§ 5. Said board of supervisors shall then give notice of an election to be held in such proposed district, for the purpose of determining

whether or not the same shall be organized under the provisions of this act. Such notice shall designate a name for such proposed district and describe the boundaries of the precincts established therein, when more than one, together with a designation of the polling-place and board of election for each precinct; and said notice shall be published for at least three weeks previous to such election, in a newspaper of general circulation within the boundaries of said proposed district and published within the county in which the petition for the organization of such district was presented; and if any portion of such proposed district is within another county, or counties, then such notice shall be published for the same length of time in such a newspaper published in each of said counties. Such notice shall require the electors to cast ballots which shall contain the words "Protection District—Yes," or, "Protection District—No," or words equivalent thereto, and also the names of one or more persons (according to the division of the proposed district as prayed for in the petition and ordered by the board), to be voted for to fill the office of director. Such election shall be conducted, as nearly as practicable, in accordance with the general laws of the state, but no particular form of ballot shall be required.

Who entitled to vote at elections held under act.

§ 6. No person shall be entitled to vote at any election held under the provisions of this act unless he possesses all the qualifications required of electors under the general election laws of the state, provided however that any person who is an actual and bona fide owner of one or more acres of land located and situated in said district shall have the right to vote at any election held hereunder, whether he be a resident of said district or not. [Amendment approved March 21, 1907. Stats. 1907, p. 850.]

Canvass of vote. Declaration of result.

§ 7. Said election shall then be held, and the said board of supervisors shall, on the first Monday succeeding such election, if then in session, or at its next succeeding general or special session, proceed to canvass the votes cast thereat, and if upon such canvass it appear that at least two-thirds of all the votes cast are "Protection District—Yes," the board shall, by an order entered in its minutes, declare such territory duly organized as a protection district, under the name theretofore designated, and shall declare the persons receiving, respectively, the highest number of votes for directors, to be duly elected to such offices.

Copy of order to be recorded.

§ 8. Said board shall then cause a copy of such order, duly certified by the clerk of said board, to be immediately filed for record in the office of the county recorder of any county in which any portion of the lands embraced in such district is situated, and must also immediately forward a copy thereof to the clerk of the board of supervisors of each of said last mentioned counties; and no board of supervisors of any county in which any portion of the lands embraced in

such districts are situated, shall, after the date of the organization thereof, allow another district to be formed including any portion of said lands, without the consent of the board of directors of the district in which they are situated. From and after such filing, the organization of the district shall be complete.

Contest.

§ 9. Such election or organization may be contested by any person owning property within the proposed district liable to assessment. The directors elected at such election shall be made parties defendant. Such contest shall be brought in the superior court of the county where the petition for organization is filed; provided, that if more than one contest be pending, they shall be consolidated and tried together. The court having jurisdiction shall speedily try such contest, and determine upon the hearing whether the election was fairly conducted and in substantial compliance with the requirements of this act, and enter its judgment accordingly. Such contest may be brought within twenty days after the canvass of the vote and declaration of the result by the board of supervisors, but not later. The right of appeal is hereby given to either party to the record.

Directors, term of office.

§ 10. The directors elected at the election hereinbefore provided for, shall immediately enter upon their duties as such, upon qualifying in the manner herein provided. Said directors shall hold office, respectively, until their successors are elected and qualified.

Classification of directors. Organization. Secretary.

§ 11. Such directors shall, on the first Tuesday after their election after they shall have qualified, meet and classify themselves by lot into two classes, as nearly equal in number as possible, and the term of office of the class having the greatest number shall expire at the next general February election in this act provided for; and the term of office of the class having the lesser number shall terminate at the next general February election thereafter. After such classification said directors shall organize as a board, shall elect a president from their number and appoint a secretary, who shall each hold office during the pleasure of the board. The salary of the secretary and the amount of the bond to be given by him for the faithful performance of his duties shall be fixed by the board of directors.

Meetings. Minutes of proceedings. Financial statement.

§ 12. The board of directors shall hold regular meetings in their office, on the first Tuesday in March, June, September, and December, and such special meetings as may be required for the proper transaction of business; provided, that all special meetings must be ordered by a majority of the board, by an order entered in the minutes specifying the business to be transacted. Three days' notice to any member not joining in the order must be given by the secretary, and only the business specified in the order must be transacted at such special meeting.

All meetings of the board must be public, and a majority of the members shall constitute a quorum for the transaction of business. A minute of all proceedings of the board shall be kept by the secretary, and all records of the board shall be open to public inspection during business hours. The board of directors shall, on the first Tuesday in March of each and every year, render, and immediately thereafter cause to be published, a verified statement of the financial condition of the district, showing particularly the receipts and disbursements of the last preceding year, together with the source of such receipts and purpose of such disbursements. Said publication shall be made at least once a week; for two weeks, in some paper of general circulation within said district and published in the county where the office of the board of directors of such district is situated.

Conduct of affairs of district. Acquisition of land.

§ 13. The board of directors shall have the power, and it shall be their duty, to manage and conduct the business and affairs of the district; to make and execute, in the name of the district, all necessary contracts; to adopt a seal for the district, to be used in the attestation of proper documents; to provide for the payment from the proper fund of all the debts and just claims against the district; to employ and appoint engineers to survey, plan, locate, and supervise the construction of works necessary for the protection of the lands within said district from damage by overflow from the waters of said stream, watercourse, canyon, or wash, as hereinbefore stated, and to estimate the cost of such works and the land needed for right of way, also to construct, maintain, and keep in repair all works necessary for the purpose of such protection. The board and its agents and employees shall have the right to enter upon any land to make surveys, and may locate the necessary protection works for the purpose of protecting the lands of said district from damage by the overflow of the waters of said stream, watercourse, canyon or wash. Said board shall also have the right to acquire, hold, and possess, either by donation, purchase, or condemnation, in the name and on behalf of said district, any land or other property necessary for the construction, use, maintenance, repair, and improvement of any works for the purpose of protection, as herein provided. The board may establish equitable by-laws, rules, and regulations necessary or proper for carrying on the business herein provided for.

Change of boundaries.

§ 14. The board of directors, when they deem it advisable, for the best interests of the district, and the convenience of the electors thereof, may at any time, but not less than sixty days before an election to be held in the district, change the boundaries of the election precincts of the district; provided, such changes shall be made to keep all the precincts as nearly equal in area and population as may be practicable. Such changes of boundaries of the precincts must be shown on the minutes of the board.

Condemnation proceedings.

§ 15. In case of condemnation proceedings, the board shall proceed, in the name of the district, under the provisions of Title VII, Part III, of the Code of Civil Procedure, which said provisions are hereby made applicable for that purpose; and it is hereby declared that the use of the property which may be condemned, taken, or appropriated under the provisions of this act, is a public use, subject to the regulation and control of the state, in the manner prescribed by law.

Elections. Official bonds. Vacancies.

§ 16. In each district organized as herein provided, an election shall be held on the first Wednesday in February of each odd-numbered year, at which directors for the district shall be elected to fill the places of those whose terms then expire. The person receiving the highest number of votes for the office to be filled at such election is elected thereto. Within ten days after receiving their respective certificates of election, each of said persons shall qualify as such director by taking and subscribing the official oath and filing a bond, as herein provided. Each director shall execute an official bond in the sum of five thousand dollars, which shall be approved by the judge of the superior court of the county where the organization of the district was effected, and shall be recorded in the office of the county recorder of such county, and then, together with his official oath, filed with the secretary of the board of directors. All official bonds herein provided shall be in the form prescribed by law for the official bonds of county officers. If a vacancy shall occur in the office of director, the same shall be filled by appointment by the remaining members of said board of directors. A director so appointed shall qualify within ten days after receiving notice of his appointment, as in said act provided, as if he were elected to such office, as hereinbefore provided; and he shall hold such office only until the next regular election for such district, and until his successor is elected and qualified.

Organization of board. Office, place of.

§ 17. On the first Tuesday in March next following the election, the directors who shall have been elected at the general February election, and those whose terms have not expired shall meet and organize as a board, elect a president and appoint a secretary, who shall each hold office during the pleasure of the board. The full term of office of directors is hereby fixed at four years. The office of the board of directors of any such district may be established by said board of directors at the county seat, of the county where the same was organized, or at some proper and convenient place within the district, but after the office is once established it shall not be changed without giving notice thereof by posting in three public places in the district and by publishing a similar notice for thirty days in some newspaper of general circulation throughout said district and published in the county where the same is organized.

Notice of election. Election officers, appointment.

§ 18. Fifteen days before any election held under this act, subsequent to the organization of any district, the secretary of the board of directors shall cause notices to be posted in three public places in each election precinct, of the time and place of holding the election, and shall also post a similar notice of the same in a conspicuous place in the office of said board, specifying the polling-places of each precinct, and the names of the members of the boards of election, for each precinct. Prior to the time for posting such notices, the board must appoint for each precinct, from the electors thereof, one inspector and one judge and one clerk, who shall constitute a board of election for such precinct. If the board fail to appoint a board of election, or the members appointed, or any of them, do not attend at the opening of the polls on the morning of election, the electors of the precinct present at that hour, may appoint the board, or supply the place of an absent member thereof. The board of directors must in its order appointing the board of election, designate the place within each precinct where the election must be held.

Organization of election board. Polls, when opened and when closed.

§ 19. The inspector is chairman of the election board, and may administer all oaths required in the progress of an election; and appoint judges and clerks, if, during the progress of the election, any judge or clerk cease to act. Any member of the board of election, or any clerk thereof, may administer and certify oaths required to be administered during the progress of an election. The board of election for each precinct must, before opening the polls, appoint two persons to act as clerks of the election. Before opening the polls, each member of the board and each clerk must take and subscribe an oath to faithfully perform the duties imposed upon them by law. Any elector of the precinct may administer any certify such oath. The polls must be open at 9 o'clock A. M., and be kept open until 4 o'clock P. M., when the same must be closed. The provisions of the general election laws concerning the form of ballots to be used shall not apply to elections held under this act.

Voting.

§ 20. Voting may commence as soon as the polls are opened, and may be continued during all the time the polls remain opened, and shall be conducted, as nearly as practicable, in accordance with the provisions of the general election laws in this state.

Election returns.

§ 21. As soon as all the votes are read off and counted, a certificate shall be drawn up on each of the papers containing the poll-list and tallies, or attached thereto, stating the number of votes each one voted for has received, and designating the office to fill which he was voted for, which number shall be written in figures and in words at full length. Each certificate shall be signed by the clerk, judge and the

inspector. One of said certificates with the poll-list and the tally paper to which it is attached, shall be retained by the inspector, and preserved by him at least six months. The ballots shall be strung upon a cord or thread by the inspector, during the counting thereof, in the order in which they are entered upon the tally-list by the clerks; and said ballots together with the other of said certificates, with the poll-list and tally paper to which it is attached, shall be sealed by the inspector in the presence of the judges and clerks and indorsed "election returns of (naming the precinct) precinct" and be directed to the secretary of the board of directors and shall be immediately delivered by the inspector, or by some other safe and responsible carrier designated by said inspector, to said secretary, and the ballots shall be kept unopened for at least six months, and if any person be of the opinion that the vote of any precinct has not been correctly counted, he may appear on the day appointed for the board of directors to open and canvass the returns and demand a recount of the vote of the precinct that is so claimed to have been incorrectly counted.

Canvass of returns.

§ 22. No list, tally paper, or certificate, from any election, shall be set aside or rejected for want of form if it can be satisfactorily understood. The board of directors must meet at its usual place of meeting on the first Monday after each election to canvass the returns. If, at the time of meeting, the returns from each precinct in the district in which the polls were opened have been received, the board of directors must then and there proceed to canvass the returns; but if all the returns have not been received, the canvass must be postponed from day to day until the returns have been received, or until six postponements have been had. The canvass must be made in public and by opening the returns and computing the vote of the district for each person voted for and declaring the result thereof.

Declaration of result.

§ 23. The secretary of the board of directors must, as soon as the result is declared, enter in the records of such board a statement of such result, which statement must show: (a) the whole number of votes cast in the district and in each precinct thereof if there be more than one precinct; (b) the names of the persons voted for; (c) the office to fill which each person was voted for; (d) the number of votes given in each precinct to each of such persons; (e) the number of votes given in each division for the office of director. The board of directors must declare the persons having the highest number of votes given for each office. The secretary must immediately make out and deliver to such person a certificate of election, signed by him, and authenticated with the seal of the board.

Number of directors.

§ 24. In any district the board of directors thereof may, upon the presentation of a petition therefor, by a majority of the land owners

of said district, order that on and after the next ensuing general election for the district, there shall be either three or five directors, as said board may order, and they shall be elected, by the district at large, or by divisions, as so petitioned and ordered; and after such order such directors shall be so elected.

Titles to district property, where vested.

§ 25. The legal title to all property acquired under the provisions of this act shall immediately and by operation of law vest in such protection district, and shall be held by such district in trust for and is hereby dedicated and set apart to the uses and purposes set forth in this act. And said board is hereby authorized and empowered to hold, use, acquire, manage, occupy, and possess said property as herein provided. The said board is hereby authorized and empowered to take conveyances or other assurances for all property acquired by it under the provisions of this act, in the name of such protection district, to and for the uses and purposes herein expressed, and to institute and maintain or defend any and all actions and proceedings, suits at law or in equity, necessary or proper in order to fully carry out the provisions of this act, or to enforce, maintain, protect, or preserve any and all rights, privileges, and immunities created by this act, or acquired in pursuance thereof. And in all courts, actions, suits, or proceedings, the said board may sue, appear, and defend in person or by attorneys, and in the name of such protection district.

Employment of engineer. Plans for work. Bond election. Additional money.

§ 26. Upon the completion of the organization of such district and of its board of directors, as hereinbefore provided for, said board of directors shall employ a civil engineer, or engineers, to make a plan, or plans, for the construction of works necessary for the protection of the land of such district from overflow and damage as hereinbefore specified; and also an estimate of the cost of said works and of the lands and property necessary to be taken or injured by such construction; which engineer, or engineers, shall report in writing to said board such plans and estimates, when completed; and said board of directors, after securing such plans and estimates, shall determine therefrom and such other information and evidence as they may deem proper to secure, the probable cost of the construction of said works and the lands and property necessary to be taken and injured by such construction. Said board shall thereupon call a special election, at which shall be submitted to the electors of such district the question whether or not the bonds of said district shall be issued in the amount so determined. Notice of such election must be given by posting notices in three public places in each election precinct in said district for at least twenty days, and also by publication of such notice in some newspaper of general circulation within said district and published in the county where the office of the board of directors of such district is required to be kept, once a week for at least three successive weeks. Such notices

must specify the time of holding the election, the amount of bonds proposed to be issued; and said election must be held and the result thereof determined and declared in all respects as nearly as practicable in conformity with the provisions of this act governing the election of officers; provided, that no informalities in conducting such an election shall invalidate the same, if the election shall have been otherwise fairly conducted. At such election the ballots shall contain the words "Bonds—Yes" or "Bonds—No," or words equivalent thereto. If a majority of the votes cast are "Bonds—Yes," the board of directors shall cause bonds in said amount to be issued; if a majority of the votes cast at any bond election are "Bonds—No," the result of such election shall be so declared and entered of record. Whenever, also, the construction fund in this act provided for has been exhausted by expenditures therefrom as in this act authorized, and it is necessary to raise additional money for said purpose, the board of directors may estimate and determine the amount of the money necessary to be raised and thereupon submit to said electors the question of raising the same by the issuance of bonds in the same manner and with like effect as at such previous election hereinbefore provided for.

Bonds, when payable. Interest rate.

§ 27. All bonds issued under the provisions of this act shall be payable in gold coin of the United States, in ten series as follows, to wit: On the first day of January after the expiration of eleven years, five per cent of the whole number of said bonds; on the first day of January, after the expiration of twelve years, six per cent; on the first day of January after the expiration of thirteen years, seven per cent; on the first day of January after the expiration of fourteen years, eight per cent; on the first day of January after the expiration of fifteen years, nine per cent; on the first day of January after the expiration of sixteen years, ten per cent; on the first day of January after the expiration of seventeen years, eleven per cent; on the first day of January after the expiration of eighteen years, thirteen per cent; on the first day of January after the expiration of nineteen years, fifteen per cent; on the first day of January after the expiration of twenty years, sixteen per cent; that the several enumerated percentages being of the entire amount of the bond issue, but each bond must be made payable at a given time for its entire amount and not for a percentage. Said bonds shall bear interest at a rate to be determined by said board of directors and specified in said notice of election not to exceed six per cent per annum, payable semi-annually, on the first day of January and July of each year. The principal and interest shall be payable at the place designated therein. Said bonds shall be each of the denomination of not less than one hundred dollars nor more than five hundred dollars; shall be negotiable in form, signed by the president and secretary, and the seal of the board of directors shall be affixed and the bonds of each issue shall be numbered consecutively, and bear date at the time of their issue. Coupons for the interest shall be attached to each bond, signed by the secretary. Said bonds

shall express on their face that they were signed by authority of this act, stating its title and date of approval, and shall also so state the number of the issue of which such bonds are a part. The secretary shall keep a record of the bonds sold, their number, the date of sale, the price received, and the name of the purchaser.

Sale of bonds. Publication. Proposals.

§ 28. The board may sell said bonds from time to time, in such quantities as may be necessary and most advantageous to raise money for the construction of said works, the acquisition of said property and rights, and otherwise to fully carry out the objects and purposes of this act. Before making any sale the board shall, at a meeting, by resolution, declare its intention to sell a specified amount of the bonds, and the day and hour and place of such sale, and shall cause such resolution to be entered in the minutes, and notice of the sale to be given, by publication thereof at least three weeks in some newspaper of general circulation in said district and published in the county where the office of the said board is located, and in any other newspaper, at its discretion. The notice shall state that sealed proposals will be received by the board at their office, for the purchase of bonds, till the day and hour named in the resolution. At the time appointed the board shall open the proposals, and award the purchase of the bonds to the highest responsible bidder; provided, however, that they may reject all bids. Said board shall in no event sell any of said bonds for less than the par value thereof.

Bonds a lien against property.

§ 29. Any bonds issued under the provisions of this act shall be a lien upon the property of the district and the lien for the bonds of any issue shall be a preferred lien to that for any subsequent issue. Said bonds, and the interest thereon, shall be paid by revenue derived from an annual assessment upon the real property of the district; and all the real property in the district shall be and remain liable to be assessed for such payments as hereinafter provided.

Assessments. To be submitted to electors.

§ 30. In case the money raised by the sale of bonds issued be insufficient or in case the bonds be unavailable for the completion of the works, and additional bonds be not voted, the board of directors shall provide for the completion of said works by levying assessments therefor; provided, however, that such levy of assessment shall not be made except first an estimate of the amount required for the purpose thereof has been made by said board, and the question as to the making of said levy submitted to a vote of the electors of the district. Before such question is submitted, the order of submission shall be entered in the minutes of the board, stating the amount to be levied and the purpose therefor, and if submitted at a special election said order shall, in addition, fix the day of election. Notice of such election must be given by posting notices in three public places in each election pre-

cinct in said district for at least twenty days, and also by publication of such notice in some newspaper of general circulation in said district and published in the county where the office of the board of directors of such district is required to be kept, once a week for at least three successive weeks. Such notices must specify the time of holding the election, and the amount of assessment proposed to be levied. Said election must be held and the result thereof determined and declared in all respects as nearly as practicable in conformity with the provisions of this act governing the election of officers; provided, that no informalities in conducting such an election shall invalidate the same, if the election shall have been otherwise fairly conducted. At such election the ballots shall contain the words, "Assessment—Yes," or "Assessment—No," or words equivalent thereto. If a majority of the votes cast are "Assessment—Yes," the board of directors shall proceed in the manner prescribed in the sections herein provided for raising funds for the annual requirements; if a majority of the votes cast are "Assessment—No," the result of such election shall be so declared and entered of record.

New bonds.

§ 31. Whenever a district organized under the provisions of this act, has outstanding bonds, coupons, or other evidences of indebtedness, the payment thereof may be provided for by the issuance of new bonds, in the manner hereinafter prescribed.

Funding of bonds.

§ 32. In order to propose the funding of such bonds, coupons, or other evidences of indebtedness a petition shall be presented to the board of directors of such protection district, signed by a majority of the owners of the land situated therein, which petition shall set forth the amount of bonds, coupons, or other evidences of indebtedness proposed to be funded, together with a general description of same, also the total amount of the bonds sought to be issued (provided, that said amount shall in no case be greater than the total amount of bonds, coupons, and other evidences of indebtedness then outstanding and sought to be funded), together with a full and complete statement of the purposes for which such bonds are to be used. On presentation of such petition, the same shall be entered in full on the minutes of the board.

Special election.

§ 33. Immediately after the recording of said petition the board shall call a special election, at which shall be submitted to the electors of such district the question whether or not the bonds of such district in the amount set forth in said petition shall be issued. Notice of such election must be given by posting notices in three public places in each election precinct in said district for at least twenty days, and also by publication of such notice in some newspaper of general circulation in said district and published in the county where the office of the board of directors of such district is required to be kept, once a

week for at least three successive weeks before such election. Such notice must specify the time of holding the election, the amount of bonds proposed to be issued, the amount of bonds, coupons or other evidences of indebtedness proposed to be funded, together with a general description of the same. Said election shall be held and the result thereof determined and declared in all respects as nearly as practicable in conformity with the provisions governing the election of officers; provided, that no informalities in conducting such an election shall invalidate the same, if the election shall have been otherwise fairly conducted. At such election, the ballots shall contain the words "Bonds—Yes" or "Bonds—No" or words equivalent thereto. If two-thirds of the votes cast are "Bonds—Yes" the board of directors shall cause bonds in said amount to be issued. If more than one-third of the votes cast at such election are "Bonds—No," the result of such election shall be so declared. The result in either case shall be duly entered of record.

Refunding bonds, how payable.

§ 34. If said bonds are directed to be issued as herein provided for the board of directors shall cause the same to be issued. Said bonds shall be made payable in gold coin of the United States, in twenty series, as follows, to wit: On the first day of January after the expiration of twenty years, five per cent of the whole amount of said bonds, and on the first day of January of each year thereafter, an equal amount of such bonds until all shall have been finally paid; that is, five per cent of the whole issue of bonds—not five per cent of each bond, each being wholly payable when due. Said bonds shall bear interest at a rate to be determined by the board of directors and specified in the notice of election not to exceed six per cent per annum, payable semi-annually on the first day of January and July of each year. They shall be negotiable in form, and shall be of denominations of not less than \$100 nor more than \$500. Said bonds shall in all respects conform to the form of bonds prescribed hereinbefore.

Must sell at par.

§ 35. It shall be unlawful to sell or exchange any of the bonds as herein provided for less than their par value.

County treasurer to be custodian.

§ 36. When bonds issued under section 34 of this act shall be duly executed, they shall be deposited with the treasurer of the county wherein the district was organized, who is hereby authorized and charged with the duty of receiving the same, and his receipt shall be taken therefor, and he shall be charged with the same on his official bond, and shall have no power to deliver the same in exchange for any bonds or indebtedness proposed to be funded until the bonds or evidence of indebtedness proposed to be funded shall have been surrendered to him, and he shall have been ordered by the board of directors of the district, by an order duly entered on their records to make such delivery. When such bonds have been exchanged for other bonds, coupons, or other evidences of indebtedness, the treasurer shall at once cancel such other

bonds, coupons, or other evidences of indebtedness by writing across the face thereof "canceled" and the date of cancellation, and report the same with his next regular report hereinafter provided for to the board of directors of the district designating the bond, coupon, or other evidence of indebtedness, so that it can be identified, the date of cancellation, and the person from whom it was received, together with the amount paid therefor, or the terms of exchange, in case there is an exchange.

Bonds may be sold from time to time.

§ 37. When said bonds are issued for the purpose of sale to the highest bidder, the board may sell said bonds from time to time, in such quantities as may be necessary and most advantageous, to raise money to pay bonds, coupons, or other evidences of indebtedness of the district which were outstanding at the time of the filing of said petition, and generally described therein. Resolution of intention must be declared, and notice given, and the sale conducted in the manner prescribed in this act for the sale of original bonds. Said bonds shall in no event be sold for less than their par value including accrued interest. All moneys realized from the sale of bonds, issued under the provisions of this section, shall be paid into the hands of the said treasurer, and by him kept in a separate fund, known as the funding fund, and shall be applied exclusively to the payment of bonds, coupons, or other evidences of indebtedness of the district outstanding at the time of the filing of the said petition, and described therein.

Exchange of bonds.

§ 38. The bonds issued as herein provided for may be exchanged, at not less than their par value, including accrued interest, for any of the indebtedness set out and described in the notice of the election authorizing the issuance of said refunding bond. A contract for such exchange may be made by the board of directors upon such terms as said board may deem advisable; provided, that they must receive not less than par value for the bonds so exchanged.

Estimate of amount needed.

§ 39. The board of directors must, on or before the first meeting of the board of supervisors in September of each year, furnish the supervisors and the auditor of the county wherein the district is situated, or if such district is not entirely within one county, then as hereinafter provided, to the supervisors and auditors of each county in which any portion of the district is situated, an estimate in writing of the amount of money needed for the purposes of the district for the ensuing fiscal year. The amount must be sufficient to raise the annual interest on the outstanding bonds, to pay the estimated cost of repairs, the incidental expenses of the district, and in any year in which any bonds shall fall due, an amount sufficient to pay the principal of the outstanding bonds as they mature; and in any year when an assessment or installment thereof is payable, sufficient to pay the same.

Division of estimate.

§ 40. If such district is in more than one county the total estimate as provided for in the preceding section shall be divided by the board of directors in proportion to value of the real property of the district in each county. This value must be determined from the equalized values of the last assessment-rolls of such counties. When such division of the estimate has been made, the board shall furnish the supervisors and auditors of the respective counties a written statement of that part of the estimate apportioned to that county.

Protection district tax levy.

§ 41. The board of supervisors of each county wherein is situated a district or any part thereof organized under the provisions of this act, must, annually, at the time of levying county taxes, levy a tax to be known as the "— (name of district) protection district tax," sufficient to raise an amount reported to them as herein provided, by the board of directors. The supervisors must determine the rate of such tax by deducting fifteen per cent for anticipated delinquencies from the total assessed value of the real property of the district within the county as it appears on the assessment-roll of the county, and then dividing the sum reported by the board of directors as required to be raised by the remainder of such total assessed value.

Duty of county auditor.

§ 42. The tax so levied shall be computed and entered on the assessment-roll by the county auditor, and if the supervisors fail to levy the tax as provided in the preceding section, then the auditor must do so. Such tax shall be collected at the same time and in the same manner as state and county taxes, and when collected shall be paid into the county treasury for the use of said district.

Levying and collecting tax.

§ 43. The provisions of the Political Code of this state prescribing the manner of levying and collecting taxes and the duties of the several county officers with respect thereto, are, so far as they are applicable and not in conflict with the specific provisions of this act, hereby adopted and made a part hereof. Such officers shall be liable upon their several official bonds for the faithful discharge of the duties imposed upon them by this act.

Repository of funds.

§ 44. If the district is in more than one county, the treasury of the county wherein the district was organized shall be the repository of all the funds of the district. For this purpose the treasurers of any other counties wherein is situated a portion of said district, must, at any time, not oftener than twice each year, upon the order of the board of directors, settle with said board and pay over to the treasurer of the county where the district was organized, all moneys in their possession belonging to the district. Said last-named treasurer is authorized and required to receive and receipt for the same, and to place the same to the credit

of the district. He shall be responsible upon his official bond for the safekeeping and disbursement, in the manner herein provided, of these and all other moneys of the district held by him.

Apportionment of funds.

§ 45. The following funds are hereby created and established, to which the moneys properly belonging shall be apportioned by the treasurer, to wit: Bond fund, construction fund, general fund, funding fund.

Duty of county treasurer.

§ 46. The treasurer shall pay out of the same only upon warrants of the board of directors, signed by the president and attested by the secretary. The treasurer shall report in writing to the board of directors whenever requested by them or the secretary, the amount of money in the fund, the amount of receipts since his last report, and the amounts paid out.

Redemption of bonds.

§ 47. Upon the presentation of the coupons due, to the treasurer, he shall pay the same from the bond fund. Whenever said fund shall amount to the sum of ten thousand dollars in excess of an amount sufficient to meet the interest coupons due, the board of directors may direct the treasurer to pay such an amount of said bonds not due as the money in said fund will redeem, at the lowest value at which they may be offered for liquidation, after advertising in the manner hereinbefore provided for the sale of bonds, for sealed proposals for the redemption of said bonds. Said proposals shall be opened by the board in open meeting, at a time to be named in the notice, and the lowest bid for said bonds must be accepted; provided, that no bond shall be redeemed at a rate above par. In case the bids are equal, the lowest numbered bond shall have the preference. In case none of the holders of said bonds shall desire to have the same redeemed, as herein provided for, said money shall be invested by the treasurer, under the direction of the board, in United States bonds, or the bonds of the state, which shall be kept in said "bond fund" and may be used to redeem said district bonds whenever the holders thereof may desire.

Bids for construction of works.

§ 48. After the adoption of a plan of works and providing funds for the construction of the same, and securing the necessary rights of way as in this act provided, the board of directors shall give notice by publication thereof not less than twenty days in one newspaper published in each of the counties composing the district (provided, a newspaper is published therein) and in such other newspapers as they may deem advisable, calling for bids for the construction of such work, or of any portion thereof; if less than the whole work is advertised, then the portion so advertised must be particularly described in such notice. Said notice shall set forth that plans and specifications can be seen at the office of the board, and that the board will receive sealed proposals therefor, and that the contract will be let to the lowest responsible bidder, stating

the time and place for opening said proposals, which, at the time and place appointed shall be opened in public; and as soon as convenient thereafter the board shall let said work, whether in portions or as a whole, to the lowest responsible bidder; or they may reject any and all bids and readvertise for proposals, or may proceed to construct the work under their own superintendence. Contracts for the purchase of material shall be awarded to the lowest responsible bidder. Any person or persons to whom a contract may be awarded shall enter into a bond, with good and sufficient sureties, to be approved by the board, payable to said district for its use for fifty per cent of the amount of the contract price, conditioned for the faithful performance of said contract. The work shall be done under the direction and to the satisfaction of the engineer, and be approved by the board.

Warrants.

§ 49. No claim shall be paid by the treasurer until allowed by the board, and only upon a warrant signed by the president, and countersigned by the secretary.

Construction fund.

§ 50. The cost and expense of purchasing and acquiring property and constructing the works and improvements herein provided for, shall be wholly paid out of the construction fund.

Pay of directors.

§ 51. Each member of the board of directors shall receive three dollars per day and actual and necessary expenses for each day's attendance at the meetings of the board, and while engaged in official business under the order of the board.

Officers must be interested in contracts.

§ 52. No director or any other officer named in this act shall in any manner be interested, directly or indirectly in any contract awarded or to be awarded by the board, or in the profits to be derived therefrom; and for any violation of this provision, such officer shall be deemed guilty of a misdemeanor, and such conviction shall work a forfeiture of his office, and he shall be punished by a fine not exceeding five hundred dollars or by imprisonment in the county jail not exceeding six months, or by both such fine and imprisonment.

Special assessments, elections for.

§ 53. The board of directors may at any time, when in their judgment it may be deemed advisable call a special election and submit to the qualified electors of the district the question, whether or not a special assessment shall be levied for the purpose of raising money to be applied to any of the purposes provided in this act. Such assessment may be payable in one or more equal annual installments as may be determined by the board of directors and specified in the notice of the election hereinafter provided. Such election must be called upon the notice prescribed and the same shall be held and the result thereof

determined and declared in all respects in conformity with the provisions of section 26 of this act. The notice must specify the amount of money proposed to be raised and the purpose for which it is intended to be used. At such election the ballots shall contain the words "Assessment—Yes" or "Assessment—No." If two-thirds or more of the votes cast are "Assessment—Yes," the board shall proceed in the manner hereinbefore prescribed for raising the annual funds by taxation. When collected, the money shall be paid into the district treasury for the purposes specified in the notice of such special election.

Limit of debt.

§ 54. The board of directors shall have no power to incur any debt or liability whatever either by issuing bonds or otherwise, in excess of the express provisions of this act; and any debt or liability incurred in excess of such express provisions shall be and remain absolutely void; except for the purposes of organization, or for any of the purposes of this act, the board of directors may, before the collection of the first assessment, incur an indebtedness not exceeding in the aggregate the sum of five thousand dollars, and may cause warrants of the district to issue therefor, bearing interest at the rate of not to exceed seven per cent per annum.

Tax exemption.

§ 55. The rights of way and works belonging to any protection district organized under this act shall not be taxed for state and county or municipal purposes.

Suit to determine validity of bonds.

§ 56. The board of directors shall within thirty days after the issue of any bonds in this act provided for bring an action in the superior court of the county wherein is located the office of such board, to determine the validity of any such bonds. Such action shall be in the nature of a proceeding in rem, and jurisdiction of all parties interested may be had by publication of summons for at least once a week for three weeks in some newspaper of general circulation in said district and published in the county where the action is pending, such paper to be designated by the court having jurisdiction of the proceedings. Jurisdiction shall be complete within thirty days after the full publication of such summons in the manner herein provided. Anyone interested may, at any time before the expiration of said thirty days, appear, and by proper proceedings contest the validity of such bonds, and may in the same action or proceeding contest the validity of any bonds, coupons, or other evidences of indebtedness referred to in the petition for funding and proposed to be funded, and if any such bonds, coupons, or evidences of indebtedness be shown to be invalid, then the same shall only be funded for the amount of such proportion thereof as equals the fair and reasonable value of whatever the district may have received in consideration therefor, together with the unpaid interest thereon, and the amount of such proportion shall be determined and adjudicated by the court in said action or proceeding. Said action shall be speedily

tried and judgment rendered declaring such bonds so contested either valid or invalid. Either party shall have the right to appeal from such judgment.

Same.

§ 57. If no such proceeding shall have been taken by the board of directors, then at any time after thirty days and within ninety days after the issue of any bonds under the provisions of this act, any district assessment payer may bring an action in the superior court of the county wherein the office of the board of directors is located, to determine the validity of any such bonds. The board of directors shall be made parties defendant and service of summons shall be made on the members of the board personally, if they can be found within the state; if not, then by publication for three weeks in some newspaper of general circulation in said district and published in the county wherein the office of the board of directors is located, such newspaper to be designated by the court having jurisdiction. Before such publication can be had, an affidavit, in the usual form shall be made, showing such facts. Said board shall have the right to appear and contest such action. Notice of said action shall be given by publication of summons therein in the same manner and for the same time as required in the preceding section hereof in actions brought by the publication of such summons in the manner herein provided. Any district assessment payer or anyone interested may appear and defend said action, and thereafter the same proceedings shall be had in such action as are hereinbefore provided for in the preceding section hereof in actions brought by the board of directors, and the same matters determined and adjudicated by the court therein. Such action shall be speedily tried, with the right of appeal to either party.

Proceedings.

§ 58. At the hearing of such proceedings the court shall hear and determine the sufficiency of all proceedings.

Actions consolidated.

§ 59. If more than one action shall be pending at the same time concerning similar contests in this act provided for, they shall be consolidated and tried together.

Rules of pleadings.

§ 60. The court hearing any of the contests herein provided for, in inquiring into the regularity, legality, or correctness of such proceedings, must disregard any error, irregularity or omission which does not affect the substantial rights of the parties to said action or proceeding. The rules of pleading and practice provided by the Code of Civil Procedure, which are not inconsistent with the provisions of this act, are applicable to all actions or proceedings herein provided for. The costs of any hearing or contest herein provided for may be allowed and apportioned between the parties or attached to the losing party, in the discretion of the court.

Contest.

§ 61. No contest of any matter or thing herein provided for shall be made other than within the time and manner herein specified.

Boundaries may be changed.

§ 62. The boundaries of any protection district now organized or hereafter organized under the provisions of this act, may be changed, and tracts of land which were included within the boundaries of such district at or after its organization under the provisions of this act, may be excluded therefrom, in the manner herein prescribed; but neither such change of the boundaries of the districts nor such exclusion of lands from the district shall impair or affect its organization, or its right in or to property, or any of its rights or privileges of whatever kind or nature; nor shall it affect, impair, or discharge any contract, obligation, lien, or charge for or upon which said district was or may become liable or chargeable, had said change of its boundaries not been made, or had not such land been excluded from the district.

Petition for exclusion from district.

§ 63. The owner or owners in fee of one or more tracts of land which constitute a portion of a protection district, may, jointly or severally, file with the board of directors of the district a petition, praying that such tract or tracts, and any other tracts contiguous thereto, may be excluded and taken from said district. The petition shall state the grounds and reasons upon which it is claimed that such lands should be excluded, and shall describe the boundaries thereof, and also the lands of such petitioner, or petitioners which are included within such boundaries; but the description of such lands need not be more particular or certain than is required when the lands are entered in the assessment-book by the county assessor. Such petition must be acknowledged in the same manner and form as is required in the case of a conveyance of land, and the acknowledgment shall have the same force and effect as evidence as the acknowledgment of such a conveyance.

Notice of petition. What notice shall state.

§ 64. The secretary of the board of directors shall cause a notice of the filing of such petition to be published for at least two weeks in some newspaper of general circulation in the district and published in the county where the office of the board of directors is situated, and if any portion of such territory to be excluded lie within another county or counties, then said notice shall be so published in a newspaper published within each of said counties; or, if no newspaper be published therein, then by posting such notice for the same time in at least three public places in said district, and in case of the posting of said notices, one of said notices must be so posted on the lands proposed to be excluded. The notice shall state the filing of such petition, the names of the petitioners, a description of the lands mentioned in said petition, and the prayer of said petition; and it shall notify all persons interested in, or who may be affected by such change of the boundaries of

the district, to appear at the office of said board at a time named in said notice, and show cause, in writing, if any they have, why the change of the boundaries of said district, as proposed in said petition, should not be made. The time to be specified in the notice at which they shall be required to show cause shall be at the regular meeting of the board next after the expiration of the time for the publication of the notice.

Hearing of petition. Expenses of hearing.

§ 65. The board of directors, at the time and place mentioned in the notice, or at the time or times to which the hearing of said petition may be adjourned, shall proceed to hear the petition, and all evidence of proofs that may or shall be introduced by or on behalf of the petitioner or petitioners, and all objections to such petition that may or shall be presented in writing by any person showing cause as aforesaid, and all evidence and proofs that may be introduced in support of such objections. Such evidence shall be taken down, in shorthand, and a record made thereof and filed with the board. The failure of any person interested in said district, other than the holders of bonds thereof outstanding at the time of the filing of said petition with said board, to show cause, in writing, why the tract or tracts of land mentioned in said petition should not be excluded from said district, shall be deemed and taken as an assent by him to the exclusion of such tract or tracts of land, or any part thereof, from said district; and the filing of such petition with said board, as aforesaid, shall be deemed and taken as an assent by each and all of such petitioners to the exclusion from such district of the lands mentioned in the petition, or any part thereof. The expenses of giving said notice and of the aforesaid proceedings shall be paid by the person or persons filing such petition.

Board may grant or deny petition to exclude.

§ 66. If upon the hearing of any such petition, no evidence or proofs in support thereof be introduced, or, if the evidence fail to sustain said petition, or if the board deem it not for the best interests of the district, that the lands, or some portion thereof, mentioned in the petition, should be excluded from the district, the board shall order that said petition be denied as to such lands; but if the said board deem it for the best interests of the district that the lands mentioned in the petition, or some portion thereof, be excluded from the district, and if no person interested in the district show cause in writing why the said lands, or some portion thereof, should not be excluded from the district, or if, having shown cause, withdraws the same, or upon the hearing fails to establish such objections as he may have made, then it shall be the duty of the board to, and it shall forthwith, make an order that the lands mentioned and described in the petition, or some defined portion thereof, be excluded from said district.

Holders of bonds may consent to exclusion. Assent, how given.

§ 67. If there be outstanding bonds of the district at the time of the filing of said petition, the holders of such outstanding bonds may give

their assent, in writing, to the effect that they severally consent that the lands mentioned in the petition, or such portion thereof as may be excluded from said district by order of said board, may be excluded from the district; and if said lands, or any portion thereof, be thereafter excluded from the district, the lands so excluded shall be released from the lien of such outstanding bonds. The assent must be acknowledged by the several holders of such bonds in the same manner and form as is required in case of a conveyance of land, and the acknowledgment shall have the same force and effect as evidence as the acknowledgment of such conveyance. The assent shall be filed with the board, and must be recorded in the minutes of the board; and said minutes, or a copy thereof, certified by the secretary of said board, shall be admissible in evidence, with the same effect as the said assent, and such certified copy thereof may be recorded in the office of the county recorder of the county wherein said lands are situated.

Minutes of board to be recorded.

§ 68. In the event the said board of directors shall exclude any lands from said district upon petition therefor, it shall be the duty of the board of directors to make an entry in the minutes of the board, describing the boundaries of the district, should the exclusion of said lands from said district change the boundaries of said district, and for that purpose the board may cause a survey to be made of such portions of the district as the board may deem necessary; and a certified copy of the entry in the minutes of the board excluding any land, certified by the president and secretary of the board, shall be filed for record in the recorder's office of each county within which are situated any of the lands of the district; but said district, notwithstanding such exclusion, shall be and remain a protection district as fully to every intent and purpose as it would be had no change been made in the boundaries of the district, or had the lands excluded therefrom never constituted a portion of the district.

Office of director becomes vacant, when.

§ 69. If the lands excluded from any district under this act shall embrace the greater portion of any division or divisions of such district, then the office of director for such division or divisions shall become and be vacant at the expiration of ten days from the final order of the board excluding said lands; and such vacancy or vacancies shall be filled by appointment by the remainder of the board from the district at large. A director appointed as above provided, shall hold his office until the next regular election for said district, and until his successor is elected and qualified.

Election of directors. Election precincts.

§ 70. At least thirty days before the next general election of such district, the board of directors thereof shall make an order dividing said district into three or five divisions, as the case may require, as nearly equal in size as may be practicable, which shall be numbered first, second, third and so on, and one director shall be elected by each division.

For the purposes of elections in such district, the said board of directors must establish a convenient number of election precincts, and define the boundaries thereof, which said precincts may be changed from time to time, as the board of directors may deem necessary.

Guardians and executors may sign petitions.

§ 71. A guardian, an executor, or an administrator of an estate, who is appointed as such under the laws of this state, and who as such guardian, executor, or administrator, is entitled to the possession of the lands belonging to the estate which he represents, may on behalf of his ward, or the estate which he represents, upon being thereto properly authorized by the proper court, sign and acknowledge the petition in section 63 of this act mentioned, and may show cause, as herein provided, why the boundaries of the district should not be changed.

Excluded lands not released from bonded debt, when.

§ 72. Nothing herein provided shall, in any manner, operate to release any of the lands so excluded from the district from any obligation to pay, or any lien thereon, of any valid outstanding bonds or other indebtedness of said district at the time of the filing of said petition for the exclusion of said lands, but upon the contrary, said lands shall be held subject to said lien, and answerable and chargeable for and with the payment and discharge of all of said outstanding obligations at the time of the filing of the petition for the exclusion of said land, as fully as though said petition for such exclusion were never filed and said order of exclusion never made; and for the purpose of discharging such outstanding indebtedness, said lands so excluded shall be deemed and considered as part of said protection district the same as though said petition for its exclusion had never been filed or said order of exclusion never made; and all provisions which may have been resorted to to compel the payment by said land of its quota or portion of said outstanding obligations, had said exclusion never been accomplished, may, notwithstanding said exclusion, be resorted to to compel and enforce the payment on the part of said land of its quota and portion of said outstanding obligations of said protection district for which it is liable, as herein provided. But said land so excluded shall not be held answerable or chargeable for any obligation of any nature or kind whatever, incurred after the filing with the board of directors of said district of the petition for the exclusion of said lands from the said district; provided, that the provisions of this section shall not apply to any outstanding bonds, the holders of which have assented to the exclusion of such lands from said district, as hereinbefore provided.

Change of boundaries does not impair contracts.

§ 73. The boundaries of any protection district now organized or hereafter organized under the provisions of this act may be changed in the manner herein prescribed, but such change of the boundaries of the district shall not impair or affect its organization, or its rights in or to property, or any of its rights or privileges of whatsoever kind or nature;

nor shall it affect, impair, or discharge any contract, obligation, lien or charge for or upon which it was or might become liable or chargeable, had such change of its boundaries not been made.

Petition to include other lands.

§ 74. The owners of one-half or more of any body of lands adjacent to the boundary of a protection district, which are contiguous and which taken together, constitute one tract of land, may file with the board of directors of said district a petition, in writing, praying that the boundaries of said district may be so changed as to include therein said lands. The petition shall describe the boundaries of said parcel or tract of land, and shall also describe the boundaries of the several parcels owned by the petitioners, if the petitioners be the owners, respectively, of distinct parcels, but such descriptions need not be more particular than they are required to be when such lands are entered by the county assessor in the assessment-book. Such petition must contain the assent of the petitioners to the inclusion within said district of the parcels or tracts of land described in the petition, and of which said petition alleges they are, respectively, the owners; and it must be acknowledged in the same manner that conveyances of land are required to be acknowledged.

Notice of filing of petition.

§ 75. The secretary of the board of directors shall cause a notice of the filing of such petition to be given and published in the same manner and for the same time that notices of special elections for the issue of bonds are required by this act to be published. The notice shall state the filing of such petition and the names of the petitioners, a description of the lands mentioned in said petition, and the prayer of said petition; and it shall notify all persons interested in, or that may be affected by such change of the boundaries of the district, to appear, at the office of said board, at a time named in said notice, and show cause in writing, if any they have, why the change in the boundaries of said district, as proposed in the said petition, should not be made. The time to be specified in the notice at which they shall be required to show cause shall be the regular meeting of the board next after the expiration of the time for the publication of the notice. The petitioners shall advance to the secretary sufficient money to pay the estimated costs of all proceedings arising from such petition.

Hearing of petition. Failure to show cause.

§ 76. The board of directors, at the time and place mentioned in the said notice, or at such other time or times to which the hearing of said petition may be adjourned, shall proceed to hear the petition and all the objections thereto, presented in writing by any person showing cause as aforesaid why said proposed change of the boundaries of the district should not be made. The failure by any person interested in said district, or in the matter of the proposed change of its boundaries, to show cause, in writing, as aforesaid, shall be deemed and taken as an assent on his part to a change of the boundaries of the district as prayed for in

said petition, or to such a change thereof as will include a part of said lands. And the filing of such petition with said board, as aforesaid, shall be deemed and taken as an assent on the part of each and all of such petitioners to such a change of the boundaries that they may include the whole or any portion of the lands described in said petition.

Condition precedent to granting petition.

§ 77. The board of directors to whom such petition is presented, may require, as a condition precedent to the granting of the same, that the petitioners shall severally pay to such district such respective sums, as nearly as the same can be estimated (the several amounts to be determined by the board), as such petitioners or their grantors would have been required to pay to such district as assessments, had such lands been included in such district at the time the same was originally formed.

Board may accept or reject petition.

§ 78. The board of directors, if they deem it not for the best interests of the district that a change of its boundaries be so made as to include therein the lands mentioned in the petition, shall order that the petition be rejected. But if they deem it for the best interests of the district that the boundaries of said district be changed and if no person interested in said district or the proposed change of its boundaries shows cause, in writing, why the proposed change should not be made, or if, having shown cause, withdraws the same, the board may order that the boundaries of the district be so changed as to include therein the lands mentioned in said petition or some part thereof. The order shall describe the boundaries as changed, and shall also describe the entire boundaries of the district as they will be after the change thereof as aforesaid is made; and for that purpose the board may cause a survey to be made of such portions of such boundary as is deemed necessary.

Resolution of change.

§ 79. If any person interested in said district of the proposed change of its boundaries, shall show cause as aforesaid why such boundaries should not be changed, and shall not withdraw the same, and if the board of directors deem it for the best interests of the district that the boundaries thereof be so changed as to include therein the lands mentioned in the petition, or some part thereof, the board shall adopt a resolution to that effect. The resolution shall describe the exterior boundaries of the lands which the board are of the opinion should be included within the boundaries of the district when changed.

Election. Ballots.

§ 80. Upon the adoption of the resolution mentioned in the last preceding section, the board shall order that an election be held within said district, to determine whether the boundaries of the district shall be changed as mentioned in said resolution; and shall fix the time at which such election shall be held, and cause notice thereof to be given and published. Such notice shall be given and published, and such

election shall be held and conducted, the returns thereof shall be made and canvassed, and the result of the election ascertained and declared, and all things pertaining thereto conducted in the manner prescribed by this act in case of a special election to determine whether bonds of a protection district shall be issued. The ballots cast at said election shall contain the words "For change of boundary" or "Against change of boundary," or words equivalent thereto. The notice of election shall describe the proposed change of the boundaries in such manner and terms that it can readily be traced.

Result of election.

§ 81. If at such election a majority of all the votes cast at said election shall be against such change of the boundaries of the district, the board shall order that said petition be denied, and shall proceed no further in that matter. But if a majority of such votes be in favor of such change of the boundaries of the district, the board shall thereupon order that the boundaries be changed in accordance with said resolution adopted by the board. The said order shall describe the entire boundaries of said district, and for that purpose the board may cause a survey of such portions thereof to be made as the board may deem necessary.

Order of change to be recorded.

§ 82. Upon a change of the boundaries of a district being made, a copy of the order of the board of directors ordering such change, certified by the president and secretary of the board, shall be filed for record in the recorder's office of each county within which are situated any of the lands of the district, and thereupon the district shall be and remain a protection district, as fully, and to every intent and purpose, as if the lands which are included in the district by the change of the boundaries, as aforesaid, had been included therein at the original organization of the district.

Petition to be recorded in minutes.

§ 83. Upon the filing of the copies of the order, as in the last preceding section mentioned, the secretary shall record in the minutes of the board the petition aforesaid; and the said minutes, or a certified copy thereof, shall be admissible in evidence with the same effect as the petition.

Guardians and executors may sign.

§ 84. A guardian, an executor or an administrator of an estate, who is appointed as such under the laws of this state, and who, as such guardian, executor or administrator, is entitled to the possession of the lands belonging to the estate which he represents, may, on behalf of his ward, or the estate which he represents, upon being thereunto authorized by the proper court, sign and acknowledge the petition in section 74 of this act mentioned, and may show cause why the boundaries of the district should not be changed.

Precinct redivision.

§ 85. In case of the inclusion of any land within any district by proceedings under this act, the board of directors must, at least thirty days prior to the next succeeding general election, make an order redividing such district, into three or five precincts, as the case may require, as nearly equal in size as may be practicable, which shall be numbered first, second, third and so on, and one director shall thereafter be elected by each precinct.

Reduction of bonded indebtedness.

§ 86. Whenever the board of directors of a protection district heretofore organized, or hereafter organized under the provisions of this act, shall determine the authorized bonded indebtedness of such protection district is greater than such district is liable to need to complete its system as planned, and there be no outstanding bonds, the board of directors may call a special election for the purpose of voting upon a proposition to reduce such bonded indebtedness to such sum as the board may determine to be sufficient for such purpose.

Notice of election therefor. Ballots.

§ 87. Notice of the said election shall be given in the same manner as provided in this act, in relation to calling special elections for issuance of bonds. The notice of election must state the amount of the authorized bonded indebtedness of such district, and the amount to which it is proposed to reduce the same; also, the date on which said election will be held, and the polling-places, as established by said board of directors. The ballots cast at said election shall contain the words, "For reducing bonds—Yes," or "For reducing bonds—No." When the vote is canvassed by the board of directors and entered of record, if a majority of the votes cast shall be "For reducing bonds—Yes," then in that event the board of directors shall only be empowered to issue or sell the amount of bonds as was stipulated in the said notice of such special election; but if a majority of said votes are not "For reducing bonds—Yes," then the authority to issue bonds shall remain the same as before said special election was held.

Assent to reduction of debt, manner of.

§ 88. In case there be outstanding bonds of any district desiring to take advantage of the provisions of sections 86 and 87 of this act concerning reduction of bonded indebtedness, the assent of such bondholders may be obtained to such reduction of the bonded indebtedness, in the same manner as provided in section 67 of this act. If such assent is obtained in the manner therein provided, then, and in that event, such district shall be empowered to take advantage of all the provisions of said sections of this act, but not otherwise. No reduction of the bonded indebtedness, as in this act provided, shall in any manner affect any order of court that may have been made, adjudicating and confirming the validity of said bonds.

Unsold bonds.

§ 89. Whenever there remains in the hands of the board of directors of any protection district organized under the provisions of this act, after

the completion of its protection system, and the payment of all demands against such district, any bonds voted to be issued by said district, but not sold, and not necessary to be sold for the raising of funds, for the use of such district, said board of directors may call a special election for the purpose of voting upon a proposition to destroy said unsold bonds, or so many of them as may be deemed best, or may submit such proposition at a general election.

Notice of election for destruction of unsold bonds.

§ 90. Such election shall be held in the same manner as other elections held under the provisions of this act. A notice of such election shall be given in the same manner as provided in section 26 of this act in relation to calling special elections for the issuance of bonds. The notice of election must state the amount of the bonded indebtedness of such district authorized by the vote of the district, the amount of the bonds remaining unsold, and the amount proposed to be destroyed, and the date on which such election is proposed to be held, and the polling-places as fixed by the board of directors. The ballots to be cast at such election shall contain the words "For destroying bonds—Yes" and "For destroying bonds—No," and the voter must erase the word "No" in case he favors the destruction of bonds, otherwise the word "Yes."

Destruction of bonds.

§ 91. When the vote is canvassed by the board of directors and entered of record, if a two-thirds majority of the votes cast should be found to be in favor of the destruction of said bonds, then the president of the board, in the presence of a majority of the members of the board, must destroy the bonds so voted to be destroyed, and the total amount of bonds so destroyed and canceled shall be deducted from the sum authorized to be issued by the electors of said district, and no part thereof shall thereafter be reprinted or reissued.

Act not to repeal other acts.

§ 92. This act is not intended to supersede or repeal any other act for the organization of reclamation or protection districts, or for protection purposes, but is intended as an independent and alternative means of effecting the protection herein provided for where the provisions of this act are most applicable or desirable to the parties interested.

§ 93. This act shall take effect and be in force from and after its passage.

ACT 2806.

An act to provide for the formation, organization and government of storm-water districts, for the purpose of protecting the land therein from damage from storm water and from the waters of any navigable stream, watercourse, canyon or wash, for the construction of the necessary works of protection by said district, and for the

levying of taxes and assessments to pay for the cost of constructing, repairing and maintaining such improvements.

[Approved March 13, 1909. Stats. 1909, p. 339.]

Storm-water districts, how formed. Resolution of intention. Notice of intention.

§1. Storm-water districts may be formed under the provisions of this act for the purpose of protecting the lands in such districts from damage from storm water, and from the waters of any innavigable stream, watercourse, canyon or wash. When ten or more owners of land whose names appear as such upon the last assessment-roll, in any district of land which lies in one body and is liable to damage from storm water or from the waters of any innavigable stream, watercourse, canyon or wash, shall present a petition to the board of supervisors of the county in which said land lies, or if the same lies in more than one county, then to the board of supervisors of the county in which the greater area of such land lies, setting forth the exterior boundaries of said district and asking that the district so described be formed into a storm-water district under the provisions of this act, the said board of supervisors shall pass a resolution declaring their intention to form and organize said portion of said county or counties into a storm-water district for the purpose of protecting the land therein from damage from storm water, and from the waters of any innavigable stream, watercourse, canyon or wash, and describing the exterior boundaries of the district. Said resolution shall fix a time and place for the hearing of the matter, not less than thirty days after the passage thereof, and direct the clerk of said board to publish a notice of the intention of the board of supervisors to form such storm-water district, and of the time and place fixed for the hearing, and shall designate some newspaper of general circulation, published and circulated in said proposed storm-water district, or if there is no newspaper so published and circulated, then some newspaper of general circulation published and circulated in each county in which any part of said proposed district is situated in which such notice is to be published.

Publication of notice.

§2. Thereupon said clerk shall cause to be published in the newspaper or newspapers so designated, for a period of twenty days before the date fixed for the hearing, a notice, which shall be headed "Notice of intention of the board of supervisors to form a storm-water district." Said notice shall set forth the fact of the passage of such resolution with the date thereof, the boundaries of the proposed district, and the time and place for the hearing, and shall state that it is proposed to assess all property embraced in said proposed storm-water district, for the purpose of paying the damages, costs and expenses of constructing and repairing such dikes, levees, ditches, canals and other improvements as may be necessary to protect the land in said district from damage from storm water and from the waters of any innavigable stream, watercourse, canyon or wash, and the necessary expense of maintaining the said district, and shall refer to the resolution for further

particulars. Said clerk shall send a copy of said notice by registered mail, postage prepaid, to each owner of land in the proposed district whose name appears as such on the last completed assessment-roll of the county or counties in which said proposed district lies, addressed to such owner at his address given on such assessment-roll, or if no address is so given, then to his last known address, or if it be not known then at the county seat of the county in which his land lies. Said clerk shall make and file in his office an affidavit of such mailing, showing the names and addresses of the persons to whom such notices were sent, which shall be prima facie evidence that said notices were mailed as herein required.

Objections to formation of district.

§ 3. Any person interested objecting to the formation of such proposed district, or to the extent thereof, may, at or before the time fixed for the hearing of the matter, file a written objection thereto, stating briefly his ground of objection, with the clerk of said board of supervisors, who shall indorse thereon the date of its reception by him, and shall at the time fixed for the hearing, place all such objections filed with him before said board of supervisors.

Hearing. Declaration of supervisors.

§ 4. At the time fixed for the hearing, or to which the hearing may be adjourned, the board of supervisors shall hear the objections filed, if any, and pass upon the same. Said board may, in its discretion, sustain, in whole or in part, any or all of the objections filed, and may change or alter the boundaries of such proposed district to conform to the needs of the district, except that they shall not include therein any territory not included in the boundaries mentioned in the petition, and may, in their discretion, declare such storm-water district formed with the boundaries designated by them, and shall designate such district by name as the — storm-water district of — county (or counties); provided that no such district shall be formed wherein a majority of the owners of property in said district, according to the last previous assessment-roll, object in writing to such action.

Control of district.

§ 5. Each storm-water district shall be under the control of three trustees, to be elected as hereinafter provided, who shall constitute the governing board thereof. Each trustee shall be a freeholder of the district and shall have resided therein at least one year next preceding his election, and shall give bond in such sum as the board of supervisors who formed the district shall fix, which bond shall be approved by a superior judge of said county and filed with the county clerk thereof. Said trustees, except those first elected, shall take office on the first day of July next succeeding their election, and shall hold office for the term of two years, and until their successors are elected and qualified.

Election of trustees. Conduct of election. Organization of board of trustees.

§ 6. Upon the formation of such storm-water district the said board of supervisors must call an election therein for the election of three

trustees of such district. Notice of said election stating the time, place or places and purpose thereof, and the names of the election officers shall be given by the board by publication in some newspaper of general circulation, designated by the board and published in their county, for two weeks before said election. Such election shall, except as herein otherwise provided, be held in conformity to the law for holding special elections, as to matters provided for thereby, and as to other matters in conformity to the general election law, so far as applicable; but no sample ballots shall be sent out. The election board shall count the votes as soon as the polls are closed, and forward the returns of the election to said board of supervisors. Said board of supervisors at their next regular meeting thereafter shall canvass said returns, and issue certificates of election to the persons elected. The board of trustees so elected shall meet and organize on the next Monday after their certificates of election are issued to them, and shall hold office until the first day of July next succeeding the first regular election of trustees herein-after provided for after the formation of said district, and until their successors are elected and qualified. On the first Friday of June of each even-numbered year there shall be held an election in said storm-water district for the purpose of electing three trustees of said district. Such regular election must be called by the board of trustees of such district in the manner herein provided for calling the first election, and the election shall be held in the same manner as the said first election, and certificates of election shall be issued by the trustees.

Trustees, compensation. Meetings, etc.

§ 7. The trustees shall receive no compensation for their services. They shall elect one of their own number president. They shall appoint a clerk, who shall hold office at their pleasure, and receive such compensation as they may fix. They must establish and keep an office in or near the district for the transaction of the business thereof, at which all books, records, and papers of the district must be kept and be open to public inspection at all reasonable times. They shall hold regular meetings at such office, at such times as they shall by order prescribe. Special meetings may be held on written order of any two trustees and two days written notice to any trustee not joining in the order. The order must specify the business for which the special meeting is called and no other business shall be transacted thereat.

Powers of districts. Contracts. Emergency work.

§ 8. Each storm-water district shall have power to sue and be sued. The trustees thereof shall have power in the name and in behalf of the district to purchase, receive by donation, or acquire by condemnation any rights of way or other real or personal property necessary to carry out the purposes for which the district was formed, and for that purpose all the provisions of the Code of Civil Procedure relating to eminent domain are hereby made applicable to proceedings by such district to condemn property. The said board of trustees shall also have power to employ such engineers, surveyors and others as may be necessary to

survey, plan, or locate, or supervise the construction or repair of, the improvements necessary to carry out the purposes for which the district was formed; to construct, maintain and keep in repair any and all improvements, requisite or necessary to carry out the purposes of the district; and to do any and all other acts and things necessary or required for the protection of the lands in said district from damage from storm waters and from waters of any innavigable stream, watercourse, canyon or wash; and to employ the services of any person legal or otherwise, which in the judgment of said board of trustees may be necessary to carry out said purposes. All work of construction, repair, or maintenance, the cost whereof exceeds \$500 shall be done by contract; and all contracts shall be let by the board to the lowest responsible bidder, who will give bond for the faithful performance thereof satisfactory to the board, after advertisement for bids published by their clerk for not less than ten days in some newspaper of general circulation, designated by the board and published in the county in which the district or some part thereof is situated, specifying the time and place for the opening of bids, and the particular work to be bid for; provided however, that the board may reject all bids and re-advertise, and may by unanimous action in cases of great emergency, the nature of which shall be entered on their minutes, proceed at once to replace or repair any of the works or improvements of the district without advertisement.

Improvements, survey for determining what.

§ 9. As soon as said district is organized, the board of trustees thereof shall cause a survey to be made to determine what improvements shall be made to carry out the purposes of the district, and shall also cause a map of such survey, and plans and specifications showing such improvements in detail, to be prepared, and they shall adopt such map, plans and specifications, and thereafter all such improvements shall be made in accordance with the map, plans and specifications so adopted; provided, that at any time after the adoption of said map, plans and specifications, and before the commissioner's report of assessment of benefits and award of damages has been finally adopted and confirmed by the board of trustees, said board may rescind their action in adopting said map, plans and specifications, and may modify the same or adopt others in place thereof.

Commissioners, appointment and duties of. Compensation.

§ 10. After adopting said map, plans and specifications, the board of trustees shall appoint three commissioners, one of whom shall be a civil engineer, to assess benefits and damages and to estimate the total cost of making the proposed improvements, which estimate shall include all expenses of every kind incurred or to be incurred, either directly or indirectly, in carrying out said improvements. Before entering upon the discharge of their duties, the commissioners shall each take and subscribe an oath to perform the duties of such commission to the best of their ability, and shall each file with the clerk of said trustees a bond to the state of California in the penal sum of one thousand dollars,

to faithfully perform the duties of the office of said commissioner, which bond must be approved by said board of trustees. The board of trustees may at any time remove any or all of said commissioners for cause upon reasonable notice and hearing, and may fill any vacancies occurring among them from any cause. Said commissioners shall receive for their services such compensation as the trustees may determine from time to time, provided that such compensation shall not exceed ten dollars per day for such civil engineer, nor five dollars per day for the other commissioners, nor continue for more than three months unless the board of trustees shall extend the time. The compensation of the commissioners shall be considered as an expense of the improvements, and shall be chargeable and payable as other expenses thereof.

Assessments of costs.

§ 11. Said commissioners shall proceed to view the land embraced within the boundaries of said storm-water district and the improvements to be made, and may examine witnesses under oath, to be administered by any one of them. Having viewed the land to be taken and the improvements to be made, and considered the testimony presented, they shall proceed with all diligence to determine the value of the land to be taken for rights of way or construction of improvements, and the damage to property affected thereby, and also to estimate the cost of constructing the proposed improvements and the expenses incident thereto, and having determined the same, shall proceed to assess the said value of land taken, damage to property affected and cost and expenses of the proposed improvements to the county or counties and upon the lands embraced within the exterior boundaries of said storm-water district. Said assessment shall be made in the following manner. The board of supervisors of each county in which any part of the district is situated, may, if they consider that the proposed improvements will be of benefit to the county roads, by order entered upon their minutes, provide that such county shall pay a portion of the total cost of the improvements, such payment to be made out of the road fund of the district where the improvements are to be made, or out of the general road fund, as the board of supervisors may determine. The total amount to be paid by all counties contributing shall not exceed one-half of the total cost of the improvements. The commissioners shall assess to the county or counties aforesaid such part of the total cost of the improvement as the board of supervisors thereof have agreed to pay as aforesaid, and the remainder of such assessment shall be made upon the lands in said district in proportion to the benefits to be derived by such lands from said improvements, including in said assessment the property of any railroad company within said district, if such there be.

Report to trustees. Rights of way.

§ 12. Said commissioners, after making their assessment of benefits and damages, shall with all diligence make a written report thereof to the board of trustees of the district and shall accompany their report with a plat of the district, showing the land taken or to be taken for

rights of way or the construction of the improvements, or to be damaged thereby, and the land assessed, showing the relative location of each lot or parcel of land and its dimensions and area, so far as the commissioners can reasonably ascertain the same. Each lot or parcel of land to be taken, damaged or assessed shall be designated in said plat by an appropriate number, and a reference to it by such number in the report shall be a sufficient description of it in all respects. Said report of the commissioners shall specify each lot or parcel of land taken or to be taken for rights of way or the construction of such improvements, or to be damaged thereby, with the names of the owners thereof or persons interested therein, and the particulars of their interest, so far as the same can be ascertained; the names of the land owners who consent to give the right of way, or to waive damages to their land not taken, and their written consent thereto; the names of land owners who do not consent and the amount of damage claimed by each; and the amount awarded to each land owner by the commissioners for the value of land to be taken or damages to land not taken. Said report shall also specify each lot, or parcel of land to be assessed, together with the names of the owners or claimants thereof or persons interested therein, so far as the same are known to the commissioners, and the particulars of their interest, so far as the same can be ascertained, and the amount assessed against each such piece or parcel of land.

Conflicting claims.

§ 13. If in any case the commissioners find that conflicting claims of title exist, or they are in doubt as to the ownership of any lot or parcel of land or any improvement thereon, or of any interest in such land or improvement, it shall be set down as belonging to unknown owners. Errors in the designation of the owner or owners of, or persons interested in, any land or improvements or of the particulars of their interest, shall not affect the validity of the assessment or of any condemnation of the property to be taken.

Hearing of report.

§ 14. The report of such commissioners and the plat accompanying it shall be filed with the trustees of the district, and said board of trustees shall thereupon fix a time for the hearing thereof, which shall not be less than four weeks after the filing thereof, and thereupon the clerk of said board of trustees shall give notice of such hearing by publication for at least two weeks in a newspaper of general circulation published and circulated in said district, if such there be, or if there is no such newspaper, then in some newspaper of general circulation published in one of the counties in which said district is situated, said newspaper to be designated by the board. Such notice shall be substantially in the following form:

Notice of the filing of the commissioner's report of — storm-water district of the county of —.

Notice is hereby given that the commissioners of the — storm-water district of the county of —, did on the — day of —, 19—, file

their report of the assessment of benefits and award of damages with the board of trustees of said district, which said report is now on file in the office of said trustees, at —, and that said report will be heard by said trustees at their office on the — day of —, 190—, at the hour of — M. Said report and the map, plans and specifications of the improvements mentioned therein are hereby referred to for further particulars. All persons interested are hereby required to show cause, if any they have, at the time fixed for said hearing, why such report should not be adopted and confirmed by said board of trustees, and the improvements therein referred to constructed by said district. All objections shall be in writing, signed by the person objecting, and filed with the board of trustees at or before the time above mentioned.

(Signed) —

Clerk of the board of trustees of — storm-water district, of — county.

Objections to report, hearing of.

§ 15. Any person interested may file with the said board of trustees, at or before the time fixed for the hearing, a written objection to said report or any part thereof, or to the map, plans, or specifications for the proposed improvements, or to the making of such proposed improvements. At the time fixed for such hearing or at any other time to which the hearing may be adjourned, the board of trustees shall hear all objections so filed, if any, and pass upon the same, and shall proceed to pass upon such report, and may confirm, correct or modify the same, or may take such action in regard to the map, plans, and specifications as is authorized by section 9 of this act, or may order the commissioners to make a new assessment, report and plat, which shall be filed, heard, and acted upon in the same manner and on like notice, as in the case of an original report. The action of the board upon the report and objections thereto, and upon the map, plans and specifications, shall be final and conclusive as to all matters which they might have remedied or avoided; and no assessment shall be set aside, except upon such hearing, for any error, defect, or informality therein or in the proceedings prior thereto, where the district has been legally formed and notice of the hearing of the report has been given as herein prescribed. When such report has been adopted and confirmed, said board may by order entered upon its minutes discharge said commissioners, and their authority shall thereupon cease.

Installment assessments. Duty of tax collector. Payment of assessments.

§ 16. After said report has been adopted, the board of trustees, if they consider the total sum to be raised for the payment of the cost of such improvements too great to be properly expended in one year, or too great to be raised in one year by assessment against the property in such storm-water district, may by order entered upon their minutes, provide that the total sum assessed shall be raised in any number of equal annual installments, not exceeding ten. When the board has adopted the report and determined the number of equal annual install-

ments in which such assessment shall be raised, they shall cause their clerk to forward to the tax collector of the county in which such district is situated, who shall file the same in his office, a certified copy of the report, assessment and plat as adopted and confirmed by said board of trustees, together with a certified copy of the order of said board, fixing the number of equal annual installments in which such assessment is to be raised, which documents shall constitute the assessment-roll. From and after the filing of such certified copy of the report and order of the board in the tax collector's office, the first year's installment of the amount assessed thereon against each parcel of land shall become due and payable immediately, and the total amount assessed against each parcel of land shall constitute a lien thereon; and thereafter installments of the assessment for the succeeding years shall become due and payable on the first Monday of October of each year; provided, that any or all subsequent installments of the assessment on any parcel of land may, at the option of any person desiring to pay the same, be paid at any time after the first installment becomes due and payable. If the district is situated in two or more counties, a certified copy of said report, assessment, plat and order of the board of trustees shall be filed with the tax collector of each county in which any part of said district is situated, and thereafter each tax collector shall proceed as to the property in said district within his own county in the manner hereinafter directed, and the assessment on the property in said county shall be collected in the manner hereinafter directed.

Publication by tax collector. Annual notice.

§ 17. Within one month after the filing of such certified copy of said report, assessment, plat and order with the tax collector, said tax collector shall give notice by ten days' publication in a newspaper of general circulation published in said district, or if there is none, in a newspaper of general circulation published in his county, that the assessment-roll of — storm-water district of — county, has been filed in his office, with the date of said filing; that the amounts entered thereon are due and payable; that if not paid on or before the first Monday in January next ensuing, the same will become delinquent and will be collected in the same manner as delinquent taxes. If the first Monday in January next ensuing is less than three months from the date of filing the assessment-roll with the tax collector, the date, to be stated in the notice, shall be three months after the filing of such assessment-roll. The tax collector shall note on said assessment-roll all assessments paid, with the dates of payment, giving receipts as in the case of payments of taxes, and shall pay all money collected into the county treasury at the same time and in the same manner as money collected for taxes paid into such treasury. All collections of subsequent installments of the assessment shall be made in the same manner as above set forth, and the tax collector shall annually (after the first year), immediately after the first Monday of October give notice as above directed that the (giving the number) annual installment of the assessments of said district is now due and payable, and that if not paid on or before the first

Monday of January next ensuing, the same will become delinquent and will be collected in the same manner as delinquent taxes; and the same proceedings shall be had thereon as upon the collection of the first assessment. If said district is situated in two or more different counties, all moneys collected on account of such assessment shall be paid into the treasury of the county in which said district was organized.

Delinquent installments, penalty added. Duty of county treasurer.

§ 18. When any installment of said assessments has become delinquent, as stated in said notice of the tax collector, the tax collector shall proceed to collect such delinquent installments of assessments, with five per cent added thereon, and pay the same, including the said five per cent so collected, over to the county treasurer as aforesaid, in the same manner as state and county taxes are collected and paid over; and all of the provisions of chapter 7, Title IX, Part III, and of section 3897 of the Political Code not in conflict with any of the provisions of this act, are hereby made applicable to the collection of assessments and delinquent installments of assessments in such storm-water district. Before any installment of said assessment becomes delinquent, the board of supervisors of each county against which any part of the cost of the improvement has been assessed, as hereinbefore provided, shall direct the county treasurer to transfer the amount of such installment of such assessment from any money then in the fund of such county from which the same is to be paid, to the special fund to be raised by such assessments; or if such district is in two or more counties, and was organized in some other county, to pay such amount to the treasurer of such other county, who shall place the same in the special fund raised by said assessment.

Disposition of fund. Payments from fund.

§ 19. All moneys paid upon such assessments, either by property owners or by the county or counties affected, shall be placed in the county treasury of the county in which such storm-water district was organized, to the credit of a special fund to be known as the — storm-water district improvement fund; and shall be used only to pay the expense and cost of constructing the improvements described in the map, plans and specifications adopted by the board of trustees. Any surplus remaining after the construction thereof shall be paid into the current expense fund. All payments from said fund shall be made upon claims prepared in the manner required by law for the preparation of claims against a county, and first presented to the board of trustees of said district and by them approved, and thereafter presented and filed as claims against the county and approved by the board of supervisors of said county, and upon a warrant drawn by the auditor of said county upon the order of said board of supervisors, in the same manner as other claims upon the county treasury.

Payments for property taken. Notice of payment.

§ 20. When sufficient money is in such storm-water district improvement fund to pay for the property to be taken and damaged according

to the award made in the report of the commissioners, the clerk of said board of trustees shall notify the owner, possessor or occupant of any land or improvement thereon to whom an award shall have been made for property to be taken or damaged, that such award has been made, stating the amount thereof and the property affected thereby, and that upon such person filing a claim and tendering a conveyance of the property to be taken or a release of the damages to property not taken, such claim will be allowed and the amount awarded paid to him. Such notice shall be given by depositing such notice in the postoffice at the county seat of such county, postage prepaid addressed to such owner, possessor or occupant, if his name be known, at his last known postoffice address. If the name of the owner of such property is not given in the report of the commissioners, or his postoffice address cannot be ascertained, said notice shall be given by said clerk by posting a copy thereof in a conspicuous place upon the property described in said notice. He shall thereupon indorse a certificate of such posting upon the original notice and file the same in his office.

Awards not accepted, proceedings when.

§ 21. If any award of damages for land or right of way to be taken or damaged is not accepted within fifteen days after the mailing or posting of this notice, it shall be deemed rejected by the property owner, and thereupon the board of trustees of the district may cause proceedings to secure the land or right of way desired to be instituted in the name of the district, by some attorney to be employed by them for that purpose, against all nonaccepting property owners; and when thereunder the right of way or land is secured, the improvement must be commenced as hereinafter provided. In such suit no informality in the proceedings of the board of supervisors or of the commissioners or of the board of trustees shall vitiate such suit; but the order of the board of trustees directing the suit to be brought shall be conclusive proof of the regularity of such prior proceedings; and the suit shall be determined by the court or jury in accordance with the rights of the respective parties as shown in court, independent of said proceedings before said board of supervisors or before said commissioners or before said trustees.

Defective rights of way.

§ 22. If any right of way attempted to be acquired by virtue of this act shall be found to be defective from any cause, the board of trustees may again institute proceedings to acquire the right of way as in this act provided, or otherwise, or may purchase the same, and include the cost thereof in the expenses of such improvement.

Improvements to begin, when.

§ 23. As soon as there is sufficient money in the improvement fund to pay for the construction of the improvements, or any separate part thereof, and the necessary land and rights of way therefor have been secured, the trustees must proceed with the construction of said improvement. The board of trustees shall determine the amount of work to be done in each year and the place where such work is to be done,

and may let a contract for any portion of such improvement that they may deem proper, and none of such work shall be done without their order. The work shall be done under the direction and to the satisfaction of the board of trustees.

Improvements to include what.

§ 24. The improvements made under this act may include the widening, deepening and straightening of the channels of innavigable streams, watercourses or washes, the construction of new channels therefor, and the construction of levees, banks, dikes, conduits, ditches and canals for the conveyance of storm water, and the waters of such streams, watercourses or washes, or for confining such streams, watercourses or washes to their channels; and said work may be done either within or without the boundaries of the district, as may be necessary in order to properly protect the land in said district from damage and secure a free outlet for such streams, watercourses, washes, and storm water.

Estimate for tax levy.

§ 25. The board of trustees of each storm-water district shall annually during the month of August estimate the amount of money which will be needed for the current year for maintaining and repairing the works and improvements of said district, and defraying the other ordinary expenses of said district, and shall upon the first Monday of September of each year certify to the board of supervisors of the county or counties in which said district lies, the amount of money which is needed for said purposes. Such board or boards of supervisors shall at the time of making the levy of taxes for county purposes for that year, levy a tax upon the property in their county in said district sufficient in amount to raise the sum estimated by the board of trustees to be necessary. When the district is in two or more counties, the amount to be raised upon the part of the district in each county shall be in proportion to the assessed valuation of the several portions of the district in the respective counties. Said tax when levied shall be entered upon the assessment-roll and collected in the same manner as state and county taxes. When the same is collected, it shall be placed in the treasury of the county in which said district was organized, to the credit of the current expense fund of said district, and shall be used only for the purpose for which it was raised. Payments shall be made from said fund in the same manner as from the improvement fund of the district.

Additional improvements.

§ 26. Whenever the board of trustees of any storm-water district shall deem it necessary to construct new or additional improvements other than those which have been constructed under the first proceedings had for that purpose, they may cause plans, specifications, and a map of said improvements to be prepared and may thereupon proceed in the same manner as in the case of the construction of the first improvements of said district, by the appointment of commissioners and the levy of an assessment to pay the cost thereof.

Disincorporation, proceedings for.

§ 27. Any storm-water district may be disincorporated at any time before the adoption of the first commissioner's report by proceedings had in the following manner: Whenever a petition praying for such disincorporation shall be presented to the trustees of said district signed by a majority of the electors therein, they shall call an election in the same manner as elections for members of the board of trustees are called, and submit to the electors of said district the question of disincorporation. Said election shall be held in all respects in the same manner as regular elections of trustees of the district. If it appears that two-thirds of the electors voting at said election have voted in favor of disincorporation; the trustees shall cause such fact to be entered upon their minutes, and shall forward a copy of such entry to the board of supervisors by whom the district was organized, who shall file the same with their clerk, and from the date of such filing, said district shall be deemed disincorporated.

Property may be added to or excluded.

§ 28. Property may be added to or excluded from any storm-water district by action of the board of supervisors by whom said district was organized, upon a petition presented to them signed by a majority of the owners of land within said territory to be annexed or excluded, as shown by the last previous assessment-roll. Before making the order of annexation or exclusion, the board of supervisors shall give notice in like manner as upon the original formation of the district, and protests may be presented and shall be considered at the same time and in the same manner as in the case of the formation of the district. Upon the final hearing of said petition, the board of supervisors shall make such order as shall seem best to them; provided, however that property in any territory so excluded shall not be released from the lien of any assessment which has been made upon said property.

Intent of act.

§ 29. This act is not intended to supersede or repeal any other act for the construction and maintenance of ditches, levees, dikes, or works for protection, drainage or reclamation, but is intended as an independent and alternative method of constructing the improvements herein provided for.

Construction of act.

§ 30. The provisions of this act shall be liberally construed to promote the objects thereof. This act may be designated and referred to as the "Storm-water district act of 1909," and shall take effect and be in force upon its passage and approval.

TITLE 397.**PUBLIC ADMINISTRATORS.****ACT 2809.**

For relief of purchasers at sales made by. [Stats. 1860, p. 16.]

This act validated sales made without first having obtained letters of administration.

TITLE 400.
PUBLIC HEALTH.

ACT 2828.

An act to prevent the propagation of disease through contamination of the atmosphere by gases and fumes arising from crematories for the disposition of garbage, ashes, offal, and other refuse matter, and to prescribe penalties.

[Approved April 17, 1909. Stats. 1909, p. 978.]

Operation of garbage crematories.

§ 1. No person, firm, company or corporation shall operate within any city, city and county or town of this state any crematory for the destruction by fire heat, of garbage, ashes, offal, or other refuse matter, except as hereinafter provided for.

Contamination of atmosphere.

§ 2. No such crematory shall be operated in this state except in such a manner as will prevent the propagation of disease through contamination of the atmosphere of any city, city and county or town by the gases or fumes arising from the fires or ovens of any such crematory operated for the destruction by fire heat, of garbage, ashes, offal, and other refuse matter.

Misdemeanor.

§ 3. Every such person, firm, company or corporation or officer, agent, or employee of such corporation, which burns by fire heat or destroys by cremation any such garbage, ashes, offal, and other refuse matter, in violation of the provisions of this act, shall be guilty of a misdemeanor.

ACT 2829.

An act providing for the sanitation of food-producing establishments, places where food is stored, prepared, kept or manufactured and in which food is distributed; regulating the health of persons by whom the materials from which food is prepared or the finished product is handled; providing for the inspection of such places, persons and things; declaring places and things in violation of this act to be nuisances, dangerous to health and providing for the abatement of the same; making violations of this act misdemeanors; and providing for the punishment of the same. [Approved March 6, 1909. Stats. 1909, p. 151.]

ACT 2830.

An act for the preservation of the public health of the people of the state of California, and empowering the state board of health to enforce its provisions, and providing penalties for the violation thereof.

[Approved March 23, 1907. Stats. 1907, p. 893.]

Public health act. How to be construed.

§ 1. This act shall be known as the Public Health Act and its provisions are to be liberally construed, with a view to effect its purpose

of preventing by uniform measures, the spread of contagious, infectious and communicable diseases and to preserve and promote the health of the people of the state. Its provisions are not intended to repeal or supersede any statutes of the state now in force, which are promotive of the general health and not in conflict with or repugnant to its provisions, but they shall be deemed supplemental to such statutes; and where the provisions of this act are not in conflict with and repugnant to such statutes, they shall be construed consistently therewith, and as continuations thereof.

Pollution of waters.

§ 2. It shall be unlawful to discharge or deposit, or cause or suffer to be discharged or deposited, any sewage, garbage, feculent matter, offal, refuse, filth, or any animal, mineral, or vegetable matter or substance, offensive, injurious, or dangerous to health, in any springs, streams, rivers, lakes, wells or other waters used or intended to be used for human or animal consumption; or to discharge or deposit, or cause or suffer to be discharged or deposited, any such offensive, injurious or dangerous matter or substance upon the land or place adjoining such waters so as to cause or suffer such matter or substance to flow or be emptied or drained into such waters.

Cesspools, sewer pipes, etc.

§ 3. It shall be unlawful to erect, construct, excavate, or maintain, or cause to be erected, constructed, excavated, or maintained, any privy, vault, cesspool, sewer-pipes or conduits, or other pipes or conduits, for the discharge of impure waters, gas, vapors, oils, acids, tar, or other matter or substance offensive, injurious, or dangerous to health, whereby any part of such matter or substance shall empty, flow, seep, drain, condense or otherwise pollute or affect any of such waters so intended for human or animal use or consumption; or to erect or maintain any permanent or temporary house, camp, or tent, so near to such springs, streams, rivers, lakes, or other sources of water supply, as to cause or suffer the drainage, seepage, or flow of impure waters, or any other liquids, or the discharge or deposit therefrom, of any animal, mineral, or vegetable matter, to corrupt or pollute such waters.

Pollution of waters by livestock.

§ 4. It shall be unlawful to cause or permit any horses, cattle, sheep, swine, poultry or any kind of livestock or domestic animals, to pollute the waters, or tributaries of such waters, used or intended for drinking purposes by any portion of the inhabitants of this state.

By bathing.

§ 5. No person shall bathe or wash clothes in any spring, stream, river, lake, reservoir, well or other waters which are used or intended for drinking purposes by the inhabitants of the vicinage or of any city, city and county, or town, of this state.

Ice must be stored in clean places.

§ 6. Ice offered or intended for public use or consumption shall be kept or stored in clean places free from all filth, offal, refuse, and pol

luted waters, and separate and removed from contact with animal or vegetable matter, and not in proximity to any cesspool, privy-vault, or sewer, nor in places where such ice may be subject to contamination from, or the action of, acids, oils, noxious, offensive, or injurious gases, smoke or vapors, and all ice kept or stored in violation of this section shall be deemed polluted ice and not fit for human consumption; and it shall be unlawful to sell, offer for sale, or store for sale such polluted ice.

Ice, certain not to be sold.

§ 7. It shall be unlawful to sell, offer, or keep for sale for public use or consumption, ice which shall have been used for the cooling of malt, vinous or spirituous liquors, or for the refrigeration of butter, milk, meat or any animal or vegetable matter or substances, or which shall have been taken from any asylum, hospital, sanitarium, sick-room, slaughterhouse, or any place where human or animal remains have been kept or deposited.

Transportation of ice.

§ 8. In the transportation or carriage of ice intended for public use or consumption, care shall be taken to prevent contact with filth, offal, and other refuse, and contamination from animal and vegetable matter, and from offensive and noxious oils, acids and other substances injurious, dangerous or offensive to health.

Ice from impure waters.

§ 9. No person, firm, company, or corporation shall make or permit to be made, or offer or permit to be offered for sale for public use or consumption, any ice manufactured from impure or polluted water, or natural ice cut or taken from any corrupt or impure waters or water source; nor taken or manufactured from any waters or source of water supply after notice from the state board of health, or its secretary, that such waters are impure or polluted.

Inspection of places where ice is stored.

§ 10. In the interest of the public health, every health officer or health inspector, upon proper demand and notice of his authority, shall be permitted, during office hours, to enter and inspect the works, premises, sources of supply, and places of storage of any person, firm, company, or corporation, maintaining, selling or offering for sale, water or ice for human use or consumption, and it shall be unlawful for any person, firm, company, or corporation to refuse to permit a reasonable inspection or investigation of such works and premises or the ice and water kept or stored therein, or to impede or obstruct such officer during such investigation.

Duty of local health officers. Report to state board of health.

§ 11. It shall be the duty of every county, city and county, municipal, town, or other health officer or inspector to enforce diligently within the county, city and county, municipality, town or district of which he is such health officer, all state laws pertaining to health and sanitary

matters, and all orders, rules and regulations concerning health, quarantine, and disinfection prescribed or directed by the state board of health, and all local ordinances, resolutions, orders, and regulations concerning health, of the board of supervisors, which shall not be in conflict with the general laws or the orders, rules and regulations of the state board of health.

Said health officers shall report to the state board of health all violations of the state health laws and all violations of the state laws relating to registration of births, marriages, and deaths, which shall come to their knowledge.

Every county health officer, and every city and county, city, or town board of health, or chief executive health officer thereof, shall report in writing to the state board of health regularly on or before the fifth day of each month, and also whenever requested by the state board of health, or its secretary, all infectious, contagious and communicable diseases in man or beast which shall come to his knowledge, upon blanks furnished by the state board of health; and he shall, in cases of local epidemic of disease, report at such times as shall be requested by the state board of health, or its secretary, all facts concerning the disease, and the measures taken to abate and prevent its spread.

It shall also be the duty of every such county health officer, and every city, city and county, and town board of health or chief executive health officer thereof, in cases of epidemic, whenever quarantine is established, promptly to transmit to the secretary of the state board of health a true copy of all quarantine rules, orders and regulations adopted by the local health board or health officer, and of all subsequent changes or modifications in the matter of such quarantine and in such local rules, orders, and regulations; and every such board of health or chief executive health officer thereof, shall promptly report, in writing, to the secretary of the state board of health any changes that may occur in their offices, and the names and residences of all newly appointed or elected officers.

Quarantine, state board of health may order.

§ 12. Whenever in the judgment of the state board of health, or when said board is not in session, whenever in the judgment of the secretary of said board, such action shall be deemed necessary to protect or preserve the public health, every county health officer, and every city and county, city or town board of health, or chief executive health officer thereof, shall, when so directed by said state board of health or its secretary, quarantine and disinfect, as required by the general and special instructions of said state board or secretary within the jurisdiction of such local board of health or health officer, persons, animals and things of whatever nature, and houses, rooms, and places, and destroy, or cause to be destroyed, bedding, carpets, household goods, furnishings and materials, clothing or animals, when such property is, by said state board of health or its secretary, deemed an imminent menace to the public health, and when ordinary means of disinfection are deemed unsafe, and the board of supervisors, council or other governing body, where such destruction of property occurs, shall have power to make adequate provi-

sion and compensation in proper cases for those injured by such necessary destruction.

Quarantine rules.

§ 18. The following rules and requirements shall be strictly observed in all cases of quarantine, subject, however, to such changes and modifications as the state board of health, or its secretary may otherwise require and direct.

Rule 1. Every county, city and county, city, or town board of health, or chief executive health officer thereof, upon receiving information of the existence of such diseases within its or his jurisdiction, must immediately quarantine each and every case of Asiatic cholera, yellow fever, typhus fever, plague, smallpox, scarlet fever, diphtheria, membranous croup, measles, leprosy, and every case of anthrax and glanders affecting human beings, and such other contagious or infectious diseases which may from time to time be declared quarantinable, and in addition to their local rules and regulations shall follow all general and special rules, regulations, and orders of the state board of health, or its secretary.

Said health boards or officers must, within twenty-four hours after quarantine, report fully, in writing, to the secretary of the state board of health, all of such cases quarantined; provided, however, that said health officers shall immediately report by telegraph to said secretary of the state board of health every case discovered or known of plague, Asiatic cholera, yellow fever or typhus fever, and after investigation and within twenty-four hours shall report the cause, source and extent of contagion and infection, and all acts done and measures adopted in each case, and shall make such further reports as the secretary of the state board of health may require.

Rule 2. In addition to the list of quarantinable diseases given in rule 1 of this section the following is a partial list of contagious, infectious and communicable diseases, all of which, though not required to be quarantined by the state board of health, must be properly reported in writing to the state board of health, or its secretary, by the said local health boards or chief executive health officers, viz.: Manila, Cuban, Philippine, adobe, or kangaroo itch; chicken-pox, erysipelas, pneumonia, uncinariasis or hookworm, cerebro-spinal meningitis, trachoma, whooping-cough, mumps, dengue, dysentery, tuberculosis of the respiratory tract, typhoid fever, tetanus, and any disease which appears to have become epidemic. This list can be changed at any time by the state board of health or its secretary.

Rule 3. When any building, house, structure, or part thereof, or tent or other place, is quarantined because of a contagious, infectious or communicable disease, said local health boards or chief executive health officer shall cause to be firmly fastened, in the most conspicuous place upon such house, building, tent, or other place, a placard or flag, upon which is printed the name of the disease, in plain and legible letters of at least two and one-half inches in length. This placard or flag must not be removed by any person except the health officer or his

deputy, and in no case until the premises have been thoroughly disinfected.

Rule 4. When persons quarantined in a house, building, structure, tent, or other place have recovered from the disease for which the quarantine is established, or when the quarantine is for exposure to a contagious, infectious or communicable disease, and the period of incubation designated has elapsed, the quarantine shall not be raised by order of the local board of health or local health officer until every exposed room, together with all bedding, clothing, and all other personal property contained therein, has been thoroughly disinfected, or if necessary, such personal property may be destroyed, by or under the direction of the health officer or his deputy; and until all persons quarantined shall have taken a thorough antiseptic bath and put on clothing free from contagion.

Rule 5. Whenever quarantine is established by any local board of health or health officer to prevent the spread of any contagious, infectious, or communicable disease, it shall be the duty of all persons to obey the rules, orders and regulations of such health board or health officer.

Rule 6. No milkman shall take away any milk bottles or other receptacles for milk from any building, house, structure, tent, or other place, in which a contagious, infectious or communicable disease exists or has existed, nor from any place within any quarantined district, nor at any time after such quarantine has been removed, unless with the written permission of the local health officer, and after such milk bottles or receptacles have been disinfected and cleaned to the satisfaction of such officer.

Whenever there exists in the house of any milkman, milk dealer or milk distributor, any case of cholera, typhus fever, plague, scarlet fever, diphtheria, membranous croup, leprosy, anthrax, glanders, cerebro-spinal meningitis, whooping-cough, typhoid fever, dysentery, trachoma or tetanus, then it shall be unlawful for such milkman, milk dealer, or milk distributor, to continue the sale or distribution of milk until the local board of health or chief executive health officer has appointed at the expense of the county where such milkman, dealer or distributor lives, a person to superintend his cows, dairy or other place where such milk is sold, or from which it is delivered or distributed, and all cows, bottles, vessels and milk utensils. Such person so appointed by the local board of health, or chief executive officer, shall strictly require that all persons attending to the cows, dairy, sheds, milk cans, bottles, vessels and milk utensils shall not have access to the infected house, nor any communication with the persons who reside in such infected house, except with the permission and under the inspection of the local health officer.

Rule 8. Every person subject to quarantine, residing or being in a quarantined building, house, structure or tent, shall not go beyond the lot upon which such building, house, structure or tent is situated, nor put himself in immediate communication with any person not subject

to quarantine, other than the health officer and physician. The local board of health or local chief executive health officer maintaining a quarantine shall appoint, or cause to be appointed a suitable person to perform necessary outside services for the necessary wants of the persons quarantined. Such person so appointed shall never enter the building, house, structure, or tent nor come in personal contact with any of the persons quarantined, but shall receive orders and deliver answers verbally at a distance, and shall leave at the entrance of the building, house, structure or tent, or at such other place as may be designated by the health officer or deputy, all articles which he may have brought, and he shall strictly observe the orders of the local health officer.

Places of quarantine.

§ 14. Every county, city and county, city, and town board of health, or chief executive health officer thereof, whenever required by the state board of health, or its secretary, shall establish and maintain places of quarantine or isolation, which shall be subject to the special directions of said state board, or its secretary.

Quarantine against other towns or counties.

§ 15. No quarantine shall be established by one county, or city, city and county, or town, against another city, city and county, county, or town, without the written consent of the state board of health, or its secretary.

Persons ill of contagious diseases, report of fact.

§ 16. All physicians, nurses, clergymen, attendants, owners, proprietors, managers, employees, and persons living in or visiting any sick person in any hotel, lodging-house, house, building, office, structure, or other place where any person shall be ill of any infectious, contagious, or communicable disease, shall promptly report such fact to the county, city and county, city, or other local health board or health officer, together with the name of the person, if known, and place where such person is confined, and nature of the disease, if known.

Protection to schools.

§ 17. No instructor, teacher, pupil, or child affected with any contagious, infectious, or communicable disease which is or might be the subject of quarantine, or has been declared reportable, or who resides in any house, building, structure, tent, or other place where such disease exists or has recently existed, shall be permitted, by any superintendent, principal or teacher of any college, seminary, public or private school, to attend such college, seminary, or school, except by the written permission of the local health officer.

Embalming.

§ 18. No embalming fluid or methods of embalming not approved by the state board of health shall be employed by any person in the case of death from contagious, infectious or communicable diseases, or in cases where the remains are to be transported or carried upon trains

or vessels or other public conveyances for interment or cremation within this state or for transportation without the state.

Same.

§ 19. No person shall embalm a body of any person who has died from an unknown cause, except with the written permission of the local health officer.

Rules for transportation of dead.

§ 20. The following rules and requirements in cases of the transportation of the dead shall be strictly observed, subject, however, to such changes and modifications as the state board of health or its secretary may otherwise require and direct:

Rule 1. The transportation within the boundaries of the state of California, from any other state, territory, district, or islands of the United States, or from any foreign country, of remains or bodies dead from plague, Asiatic cholera, yellow fever, typhus fever, anthrax, or glanders, or the transportation of the same from this state to any part of the United States, or any foreign country, is absolutely prohibited.

No remains or bodies of those dead from any of said diseases shall be transported within this state to any place beyond a distance of twenty-five miles except by permission and under the direction of the state board of health or its secretary, and subject also to the conditions provided in rules 2, 5 and 6 of this section hereinafter set forth.

Rule 2. The bodies of persons dead of Asiatic cholera, yellow fever, diphtheria, membranous croup, scarlet fever (scarlatina, scarlet-rash), erysipelas, glanders, anthrax, or leprosy, shall not be accepted for transportation unless prepared for shipment by (a) arterial and cavity injection with a disinfecting fluid approved by the state board of health; (b) disinfection and stopping of all orifices with absorbent cotton, and (c) washing the body with a disinfectant; (d) such body shall be enveloped in a layer of dry cotton not less than one inch thick, completely wrapped in a sheet securely fastened, and encased in an air-tight zinc, tin, copper, or lead-lined coffin or iron casket, all joints and seams hermetically sealed, and all inclosed in a strong, tight, wooden box; provided, that instead of such zinc, tin, copper or lead-lined coffin or iron casket, the body having been prepared for shipment by disinfecting and wrapping as above, may be placed in a strong coffin or casket, or tin-lined box, all joints and seams hermetically soldered.

In the shipment of bodies dead from any disease named in this rule, such body must not be accompanied by persons or articles which have been exposed to the infection of the disease, unless certified by the health officer to have been properly disinfected.

Rule 3. The bodies of those dead from typhoid fever, puerperal fever, tuberculosis, measles, or other contagious or infectious diseases not enumerated under rules 1 and 2 of this section, may be received for transportation when prepared for shipment by arterial and cavity injection with an approved disinfecting fluid, washing the exterior of the body with the same, and enveloping the entire body with a layer of

cotton not less than one inch thick, and wrapped in a sheet securely fastened, and encased in an air-tight metallic coffin or casket or an air-tight metallic box; provided, that this shall apply only to bodies which can reach their destinations within thirty hours from the time of death.

Rule 4. The bodies of those dead from any cause not stated in rules 1, 2 and 3 of this section, may be received for transportation when encased in a sound coffin or casket and inclosed in a strong outside wooden box; provided, they can reach their destination within thirty hours from the time of death. If the body cannot reach its destination within thirty hours from the time of death, it must be prepared for shipment by arterial and cavity injection with an approved disinfecting fluid, washing the exterior of the body with the same, and enveloping the entire body with a layer of dry cotton not less than one inch thick, and wrapped in a sheet securely fastened, and encased in an air-tight metallic coffin or casket or an air-tight metal-lined box.

Rule 5. Every dead body must be accompanied by a transit permit showing physician's or coroner's certificate, and as far as obtainable, showing name of deceased, age, date, place and cause of death, and all other matters required by an act of the legislature of the state of California approved March 18, 1905, and entitled "An act for the registration of deaths, the issuance and registration of burial and disinterment permits, and the establishment of registration districts in counties, cities and counties, cities and incorporated towns, under the superintendence of the state bureau of vital statistics and prescribing the powers and duties of registrars, coroners, physicians, undertakers, sextons, and other persons in relation to such registration, and fixing penalties for the violation of this act."

Said transit permit shall indicate the place to which the body is to be transported and the name of the consignee or person to whom it is to be delivered, and shall include the registrar's or health officer's permit showing whether death resulted from a communicable or noncommunicable disease, and also the undertaker's certificate, showing the manner in which the body had been prepared for shipment.

The transit permit must be made in triplicate, and the signatures of physician or coroner, health officer, registrar, and undertaker must be upon the original and the duplicate and triplicate copies.

The physician's certificate and transit permit shall be delivered to the passenger or agent, if any, in charge of the body. The whole duplicate copy shall be sent to the officer in charge of the baggage department of the initial line and by him to be forwarded to the state board of health or other proper health authority of the state or territory, foreign country or place of destination, and the triplicate copy shall be transmitted to the secretary of the state board of health of California, at Sacramento.

Rule 6. When bodies are shipped by express, as described in rule 5 of this section, a transit permit must be made out in triplicate. The undertaker's certificate and paster of the original shall be detached from the transit permit and securely fastened in a conspicuous place on the

coffin box. The physician's certificate and transit permit shall be attached to and accompany the express waybill covering the remains, and be delivered with the body at the point of destination to the person to whom it is consigned. The whole duplicate copy shall be sent by the forwarding express agent to the state board of health of the state from which said shipment was made, and the triplicate to the secretary of the state board of health of California, at Sacramento.

Rule 7. Disinterred bodies or remains of persons who have died from any disease or cause shall be treated as infectious or dangerous to the public health, and shall not be accepted for transportation in or removed from this state unless said removal has been approved by the state board of health or its secretary. If the disinterment be in this state the consent of the health board or chief executive health officer of the locality where the body is to be reinterred shall be first obtained. No dead body shall be brought into this state without the approval of the health authorities of the state, territory, District of Columbia or foreign country from which such body shall be removed and no such body shall be received, transported, or buried in this state unless satisfactory evidence of compliance with the rules of the state board of health respecting the same shall be submitted to the secretary of the state board of health and his written consent obtained to such transportation, receipt or burial; and no disinterred body shall be shipped or transported from one place to another in this state without the written permission of the secretary of the state board of health and full compliance with the rules of this board respecting disinterment of bodies. And all such disinterred remains or the coffin or casket containing the same, must be wrapped in a woolen blanket thoroughly saturated with a 1-1000 solution of corrosive sublimate and inclosed in a hermetically soldered zinc, tin or copper-lined box. Bodies deposited in or taken from vaults shall be treated and considered the same as buried bodies.

The permission of the state board of health, or its secretary, shall not be required in cases of disinterment nor shall this rule be applicable where the remains are to be reinterred within the same city or town, or where such remains are to be reinterred in an adjoining county, city and county, city or town where the distance between the place of disinterment and the place where the remains are to be reinterred does not exceed thirty miles; provided, however, that the consent of the local health authorities shall be first obtained and all local health regulations strictly observed.

Violation of act a misdemeanor.

§ 21. Any person violating any of the provisions of this act, whether acting for himself, or as the agent or servant of another person, or of a firm, company or corporation, shall be guilty of a misdemeanor, and upon conviction shall be punished as provided in section 19 of the Penal Code of the State of California.

§ 22. This act shall take effect from its passage.

ACT 2831.

To create the office of attorney for the state board of health and the board of health of the city and county of San Francisco. [Approved March 31, 1891. Stats. 1891, p. 209.]

Citations. Cal. 116/109.

ACT 2832.

To protect public health from infection caused by exhumation and removal of the remains of deceased persons. [Stats. 1877-78, p. 1050.]

Amended 1889, p. 189.

See ante, Act 545.

ACT 2833.

To prevent the introduction, and provide for the investigation and suppression, of contagious or infectious diseases, and appropriating money to be used for such purpose. [Stats. 1901, p. 10.]

Repealed 1903, p. 414.

ACT 2834.

To protect the public health, to prevent the introduction and spreading of disease, and to provide for the protection of the health of criminals under sentence or conviction of a misdemeanor. [Stats. 1883, p. 280.]

Partly codified by § 1615 of Penal Code, 1905: See note to § 1615, Penal Code.

This act authorized the cutting of the hair of persons convicted of a misdemeanor.

ACT 2835.

An act to prevent the introduction of contagious or infectious diseases into the state of California.

[Approved March 15, 1883. Stats. 1883, p. 376.]

See Political Code, § 2979a.

Railroad cars to be inspected.

§ 1. Whenever there shall exist, in the opinion of the state board of health, imminent danger of the introduction of contagious or infectious diseases into the state of California, by means of railroad communication with other states, the said state board of health are authorized, and it is hereby made their duty, to make or cause to be made, by any accredited agent or inspector, an inspection of all railroad cars, coming into the state at such point, or between such points within the state limits as may be selected for the purpose.

Detention of train a minimum.

§ 2. Such inspection shall be made, where practicable, during the ordinary detention of a train at a station, or while in transit between stations, and in all cases shall be so conducted as to occasion the least

possible detention or interruption of travel or inconvenience to the railroad companies, so far as consistent with the purposes of this act.

Infected cars to be sidetracked.

§ 3. Should the discovery be made of the existence among the passengers of any case or cases of dangerous, contagious, or infectious disease, the said board of health, or their agent, or inspector, under rules and conditions prescribed by them as being applicable to the nature of the disease, shall have power to cause the sidetracking or detention of any car or cars so infected, to isolate the sick or remove them to a suitable place for treatment, to establish a suitable refuge station, to cause the passengers and materials in such infected car to be subjected to disinfection and cleansing before proceeding further into the state, and, in the case of smallpox, to offer free vaccination to all persons exposed in any car or at any station.

Appropriation.

§ 4. The sum of five hundred dollars is hereby appropriated out of any moneys in the treasury not otherwise appropriated, to be expended solely for the purposes of this act, and all expenditures herein authorized shall be specified in an itemized account to be presented to the state board of examiners, and paid as other demands on the treasury are paid; provided, that in no case shall the sum expended exceed that herein specially appropriated for the purpose.

§ 5. This act shall take effect from and after its passage.

ACT 2836.

An act to prevent the introduction, and provide for the investigation and suppression of contagious or infectious diseases, and appropriating money to be used for such purpose. [Approved March 20, 1903. Stats. 1903, p. 255.]

This act appropriated \$100,000 for the purpose indicated.

ACT 2837.

To authorize the state board of health to purchase and manufacture diphtheria antitoxin, and to appropriate six thousand dollars therefor. [Approved March 12, 1895. Stats. 1895, p. 45.]

ACT 2838.

An act entitled An act to grant to boards of health in cities, and cities and counties, the power to regulate the plumbing and drainage of buildings.

[Approved March 15, 1883. Stats. 1883, p. 366.]

Plumbers required to register.

§ 1. Every master or journeyman plumber carrying on his trade shall, under such rules and regulations as the board of health of such county, or city and county, shall prescribe, register his name and address at

the health office of such county, or city and county; and after the said date it shall not be lawful for any person to carry on the trade of plumbing in any county, or city and county, unless his name and address be registered as above provided.

Publication.

§ 2. A list of the registered plumbers shall be published in the yearly report of the health office.

Board of health to approve plans.

§ 3. The drainage and plumbing of all buildings, both public and private, hereafter erected in any county, or city and county, shall be executed in accordance with plans previously approved, in writing, by the board of health of said county, or city and county; suitable drawings and description of the said drainage and plumbing shall, in each case, be submitted and placed on file in the health office. The said board of health are also authorized to receive and place on file drawings and descriptions of the drainage and plumbing of buildings erected prior to the passage of this act.

Supervisors to apportion tax.

§ 4. The boards of supervisors, or other city or county officials, whose duty it is to make apportionments for the board of health of such county, or city and county, shall make the necessary apportionments, and shall insert the same in the yearly tax levy, to provide for carrying out the provisions of this act.

Court of record may enjoin.

§ 5. Any court of record in said county, or city and county, or any judge or justice thereof, shall have power at any time after the service of notice of the violation of any of the provisions of this act, and upon the affidavit of the health officer or a member of the board of health of such county, or city and county, to restrain by injunction order the further violation named in this act, or of any work upon or about the building or premises upon which the said violation exists, and no undertaking shall be required as a condition to the granting or issuing of such injunction or by reason thereof.

§ 6. Any person violating any of the provisions of this act shall be deemed guilty of a misdemeanor.

§ 7. This act shall take effect immediately.

ACT 2839.

An act to grant to boards of health or health officers, in cities, and cities and counties, the power to regulate the plumbing and drainage of buildings, and to provide for the registration of plumbers.

[Approved March 3, 1885. Stats. 1885, p. 12.]

Amended 1887, p. 58.

License from board of health.

§ 1. It shall not be lawful for any person to carry on business, or labor as a master or journeyman plumber, in any incorporated city, or in any city and county, in this state until he shall have obtained from the board of health of said city or city and county a license authorizing him to carry on business, or labor as such mechanic. A license so to do shall be issued only after a satisfactory examination by the board of each applicant upon his qualifications to conduct such business or to so labor. All applications for license, and all licenses issued, shall state the name in full, age, nativity, and place of residence of the applicant or person so licensed. It shall be the duty of the secretary of each board of health to keep a record of all such licenses issued, together with an alphabetical index to the same. [Amendment approved March 9, 1887. Stats. 1887, p. 58. In effect immediately.]

Publish list in yearly report.

§ 2. A list of all licensed plumbers shall be published in the yearly report of the health officer or board of health. [Amendment approved March 9, 1887. Stats. 1887, p. 58. In effect immediately.]

Plans of plumbing.

§ 3. The drainage and plumbing of all buildings, both public and private, hereafter erected in any city, or city and county, shall be executed in accordance with plans previously approved in writing by the board of health of said city, or city and county; and suitable drawings and description of the said drainage and plumbing shall, in each case, be submitted to the board of health, and placed on file in the health office. The said board of health is also authorized to receive and place on file drawings and descriptions of the drainage and plumbing of buildings erected prior to the passage of this act.

Tax levy.

§ 4. The board of supervisors, or other city, or city and county, officials whose duty it is to make appropriations and tax levies for general purposes of such city, or city and county, shall make the necessary appropriation and tax levies, and shall insert the same in the yearly tax levy, to provide for carrying out the provisions of this act. Such appropriations and levy shall be made at the same time and in the same manner as appropriations and tax levies are made for other city, or city and county, purposes.

Where no board of health.

§ 5. In any city, or city and county, where there is under existing laws, a health officer, but no board of health, such health officer shall perform all the duties required by this act of the board of health until a board of health shall be created, and in any city, or city and county, where there is no health officer nor board of health, the board of supervisors or city council, or other municipal legislative board or body, shall create a board of health, who shall perform all the duties, required by this act of the board of health or health officer.

Injunction.

§ 6. Any superior court, or judge thereof, shall have power to restrain by injunction the continuance of work to be done upon or about buildings or premises where the provisions of this act have not been complied with, and no undertaking shall be required as a condition to the granting or issuing of such injunction, or by reason thereof.

Penalty.

§ 7. Any person violating any of the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction shall be punished accordingly.

§ 8. This act shall take effect immediately.

ACT 2840.

An act to encourage and provide for a general vaccination in the state of California.

[Approved February 20, 1889. Stats. 1889, p. 32.]

Citations. Cal. 84/226, 228, 229; 148/661.

Exclusion of children from schools unless vaccinated.

§ 1. The trustees of the several common-school districts in this state, and boards of common-school government in the several cities and towns, are directed to exclude from the benefits of the common schools therein any child or any person who has not been vaccinated, until such time when said child or person shall be successfully vaccinated; provided, that any practicing and licensed physician may certify that the child or person has used due diligence and cannot be vaccinated so as to produce a successful vaccination, whereupon such child or person shall be excepted from the operation of this act.

Notice by school trustees.

§ 2. The trustees or local boards, annually, or at such special times to be stated by the state board of health, must give at least ten days' notice, by posting a notice in two or more public or conspicuous places within their jurisdiction, that provision has been made for the vaccination of any child of suitable age who may desire to attend the common schools, and whose parents or guardians are pecuniarily or otherwise unable to procure vaccination for such child.

List of children not vaccinated.

§ 3. The said trustees or board must within sixty days after the passage of this act, and every year thereafter, ascertain the number of children or persons in their respective school districts or subdivision of the city school government being of an age suitable to attend common schools, who have not been already vaccinated, and make a list of the names of all such children or persons. It also shall be [the] duty of said trustees or board to provide, for the vaccination of all such children

or persons in their respective school districts, a good and reliable vaccine virus wherewith to vaccinate such children or persons who have not been vaccinated. And when so vaccinated, to give a certificate of vaccination, which certificate shall be evidence thereof for the purpose of complying with section 1.

Expenses for, how paid.

§4. The necessary expenses incurred by the provisions of this act shall be paid out of the common school moneys apportioned to the district, city, or town. And if there be not sufficient money, the trustees must notify the board of supervisors of the amount of money necessary, and the board must, at the time of levying the county tax, levy a tax upon the taxable property in the district sufficient to raise the amount needed. The rate of taxation is ascertained by deducting fifteen per cent for delinquencies from the assessment, and the rate must be based upon the remainder. The tax so levied must be computed and entered upon the assessment roll by the county auditor, and collected at the same time and in the same manner as state and county taxes, and when collected shall be paid into the county treasury for the use of the district.

Annual report of trustees.

§5. The trustees of the several school districts of this state are hereby required to include in their annual report, and report to the secretary of the state board of health, the number in their several districts between the ages of five and seventeen years who are vaccinated, and the number unvaccinated.

§6. This act shall take effect immediately.

ACT 2841.

To provide for the proper sanitary conditions of factories and workshops, and the preservation of the health of employees. [Stats. 1889, p. 3.]

Amended 1901, p. 571; 1909, p. 43.

Unconstitutional: *Schaezlein v. Cabaniss*, 135 Cal. 466.

ACT 2842.

An act providing for the dissemination of knowledge among the people of California as to the best means of preventing the spread of tuberculosis, and making an appropriation therefor. [Approved March 21, 1907. Stats. 1907, p. 846.]

ACT 2843.

An act to provide for the medical treatment of indigent residents afflicted with incipient pulmonary tuberculosis; and to prescribe the duties of the state board of health and other public officials with relation thereto. [Approved April 14, 1909. Stats. 1909, p. 899.]

ACT 2844.

An act providing for the dissemination of knowledge among the people of California as to the best means of preventing the spread of tuberculosis, and making an appropriation therefor. Approved March 15, 1909. Stats. 1909, p. 368.]

A similar act was passed in 1907: See Stats. 1907, p. 864.

TITLE 401.**PUBLIC INSTITUTIONS.****ACT 2845.**

An act providing for the exchange of commodities between the public institutions owned or managed and controlled by the state, or the political divisions thereof.

[Approved March 18, 1905. Stats. 1905, p. 185.]

§ 1. It shall be the duty of the state board of examiners, within six months after the passage of this act, to arrange, so far as may be practical, for an exchange of surplus products, either manufactured or natural, between the several public institutions owned or managed and controlled by the state, or the political divisions thereof.

§ 2. It shall be the duty of the state board of examiners to so distribute and arrange, with the assistance of the boards of managers, directors or trustees of the several institutions referred to in section 1 of this act, the labor and industry of their inmates that it will prove conducive to their mutual assistance, with a view of advancing the economic management of all the institutions owned or managed and controlled by the state, or the political divisions thereof; and all such surplus products shall not be sold or disposed of to any individual, corporation or association not connected with the state, or any political division thereof, so long as there shall be any demand for any such products by any public institutions owned or managed and controlled by the state, or the political divisions thereof.

§ 3. In estimating the value of such articles for the purpose of such exchange or sale between public institutions, the cost of producing or raising such products, with ten per cent added, shall be the sale price thereof.

§ 4. Each institution shall notify the state board of examiners what surplus products they have to dispose of, as set forth in this act, and the state board of examiners shall notify all the other institutions owned or managed and controlled by the state, or the political divisions thereof, that such articles can be procured and where, and thereupon the provisions of section 2 of this act shall become effective, and the state board of examiners shall allow no claims for the purchase of any products from any individual, corporation or association so long as the

same might have been procured from a state institution after it had been duly notified of that fact.

§ 5. All acts and parts of acts inconsistent with this act are hereby repealed.

TITLE 402.

PUBLIC LANDS.

ACT 2846.

Authorizing the governor to reconvey part of the lands to the United States, conveyed to the state and listed under the agricultural college grant of 150,000 acres. [Stats. 1883, p. 287.]

ACT 2847.

Prescribing the mode of maintaining and defending possessory actions on lands belonging to the United States. [Stats. 1850, p. 203.]

Repealed by act of 1852, p. 158.

ACT 2848.

Prescribing the mode of maintaining and defending possessory actions on public lands. [Stats. 1852, p. 158.]

Amended 1859, p. 94; 1861, p. 148.

Citations. Cal. 42/151, 406; 44/200; 108/422; 139/377.

Not repealed: See Gray v. Dixon, 74 Cal. 508.

ACT 2849.

For the protection of actual settlers and to quiet title to lands. [Stats. 1856, p. 54.]

"In many respects unconstitutional (Billings v. Hall, 7 Cal. 7; Lathrop v. Mills, 19 Cal. 513; Pioche v. Paul, 22 Cal. 105); and the parts not unconstitutional are probably superseded by the codes."—Code Commissioners' Note.

ACT 2850.

For the better protection of settlers on public lands. [Stats. 1858, p. 345.]

This act provided for the redress of parties ousted under a foreign grant which was afterward rejected or did not include the land.

ACT 2851.

Public lands, protection of settlers on. [Stats. 1873-74, p. 327.]

Amended 1881, p. 72.

Citations. Cal. 134/47.

See Political Code, §§ 3441, 3442.

ACT 2852.

For the better protection of settlers on the public lands of the United States and for the protection and encouragement of persons desirous of settling thereon. [Stats. 1887, p. 147.]

Codified by § 420 of Penal Code, 1905: See note to § 420, Penal Code.

ACT 2853.

Pre-emption and homestead claimants, protection of. [Stats. 1873-74, p. 543.]

ACT 2854.

Public lands, bona fide settlers on, protection of. [Stats. 1873-74, p. 543.]

This act protected the rights of settlers on lands within the survey of a Mexican grant and which had been restored to the public domain.

ACT 2855.

To provide for the management and sale of lands belonging to the state. [Stats. 1867-68, p. 507.]

Amended 1869-70, pp. 14, 814, 875. Supplemented 1869-70, p. 878.

Amended 1871-72, pp. 888, 668, 685, 858.

Citations. Cal. 45/857, 692; 46/189, 890; 47/182, 227, 240; 48/28; 51, 475, 537; 52/181; 56/223; 57/585, 586; 61/207; 63/308; 65/636; 68/542; 74/111; 83/105; 84/615; 91/33; 115/833, 835; 117/457; 121/523; 130/609, 615; 140/279; 141/446; 144/211, 212, 213, 643, 644, 646; 149/798, 799, 800; 151/258.

AMDT. 1869-70.

Citations. Cal. 47/240, 413; 51/537; 52/106; 58/261; 63/308; 64/209; 68/543; 184/48.

This act repealed all prior acts: Kings Co. v. Tulare Co., 119 Cal. 509, 512, As to the effect of the Political Code upon it, see Reclamation District No. 3 v. Goldman, 61 Cal. 205.

ACT 2856.

Reservation from sale of certain land. [Stats. 1875-76, p. 679.]

This act reserved the north half of section 16, in township 7 south, and range 3 east, Mt. Diablo meridian.

ACT 2857.

Regulating the sale of lands uncovered by the recession or drainage of the waters of inland lakes. [Stats. 1893, p. 341.]

Amended 1899, p. 182.

Citations. Cal. 121/505; 136/492, 494, 497; 143/327, 328, 330, 332.

Codified by §§ 3493m-3493t of Political Code.

ACT 2858.

Salt marsh and tide lands, survey and disposition of. [Stats. 1873-74, p. 858.]

Supplementing and amending act of April 1, 1870, Stats. 1869-70, p. 541, repealed by code amendments 1875-76, p. 15.

Itself supplemented and amended the act of 1867-68, p. 692.

ACT 2859.

Sale of swamp lands, distribution of funds derived from. [Stats. 1873-74, p. 770.]

Citations. Cal. 119/513.

ACT 2860.

To provide for applications for the purchase of sixteenth and thirty-sixth sections, to regulate the application for the purchase of such sections, and requiring a deposit to accompany all applications for the purchase of the same. [Stats. 1889, p. 434.]

Citations. Cal. 139/626.

See this act post, Act 2827.

ACT 2861.

Providing for examination into the sale and disposal of state lands. [Stats. 1875-76, p. 798.]

This act created a commission to hold office one year for the above purpose

ACT 2862.

Making certificates of purchase or of location evidence of title. [Stats. 1859, p. 227.]

Supplemented 1859, p. 332. Amended 1867-68, p. 529.

Citations. Cal. 42/297; 51/45; 71/24.

In *True v. Thompson*, 42 Cal. 293, it was held that this act was superseded and repealed by the act of 1863, p. 591, in so far as it made a certificate of location prima facie evidence of title. The act of 1863 was in turn repealed by the act of 1867-68, p. 530.

ACT 2863.

Legalizing applications to purchase state lands. [Stats. 1869-70, p. 352.]

Citations. Cal. 45/450; 47/240; 56/223, 558; 58/541; 83/105; 117/464.

This statute validated sales under the act of March 28, 1868, where the affidavits were defective.

See Act 2833, post.

ACT 2864.

Legalizing purchase of lands belonging to state. [Stats. 1871-72, p. 622.]

ACT 2865.

School lands, act to legalize payments for. [Stats. 1871-72, p. 137.]

ACT 2866.

Respecting payment in full by holders of certificates of purchase of lands sold prior to March 27, 1872, and for which the said state has at any time heretofore issued certificates of purchase to subsequent purchasers. [Stats. 1889, p. 428.]

ACT 2867.

For the relief of purchasers of state lands. [Stats. 1871-72, p. 587.]

Amended 1877-78, p. 914.

Citations. Cal. 46/26; 52/376; 55/122; 56/224, 225, 226, 228; 62/259; 63/30; 63/543; 73/363; 74/112, 398; 83/106; 85/534, 535; 99/308; 107/547, 548.

ACT 2868.

To provide for the presentation and cancellation of unlocated school land warrants. [Stats. 1893, p. 181.]

ACT 2869.

Authorizing the governor and surveyor-general to sell and convey certain lands. [Stats. 1891, p. 251.]

Citations. Cal. 114/112.

This act authorized the sale of certain lands to the claimants and occupants thereof.

ACT 2870.

Justice, John D., to cure defects in application of, to purchase lands. [Stats. 1877-78, p. 535.]

ACT 2871.

To authorize certain persons to remove improvements placed upon public lands after said lands have become private property. [Stats. 1867-68, p. 708.]

Declared unconstitutional: *Collins v. Bartlett*, 44 Cal. 372.

ACT 2872.

To enable purchasers of state lands to redeem them where their titles have been or may hereafter be foreclosed for nonpayment of interest. [Stats. 1881, p. 65.]

Citations. Cal. 115/383; 144/425.

ACT 2873.

An act granting rights of way for lines, roads, structures, levees, canals and excavations to the United States, over the public lands of this state.

[Approved March 21, 1907. Stats. 1907, p. 848.]

§ 1. A right of way is hereby granted over the public lands of this state, and over any public land which may hereafter become the property of this state, to the United States, for all telegraph, telephone, power or light lines, roads, railroads, tramways, dikes, levees, dams, mounds, embankments, tunnels, ditches or canals, or other works, structures or excavations requiring rights of way built, erected, excavated or constructed under the provisions of the act of Congress, approved June 17, 1902, relating to irrigation and reclamation.

§ 2. All patents or conveyances of such lands which may hereafter be located or filed on shall be issued subject to the rights of way herein provided for.

ACT 2874.

An act validating the title to lands selected by the state in lieu of surveyed school sections situated within the exterior boundaries of national reservations created by proclamation of the President of

the United States and vesting the title of the state to such surveyed school sections in the United States.

[Approved April 24, 1909. Stats. 1909, p. 1091.]

§ 1. The selection of all lands heretofore made by the surveyor general from the government of the United States in lieu of surveyed school sections situated within the exterior boundaries of national reservations created by proclamation of the president of the United States and which have been listed to the state of California and also all such selections which are now pending before the land department of the United States, when listed to the state, are hereby declared to be good and valid and to vest the title of the United States and the state when said state shall have issued its patent therefor, to such lands in the applicant, his successors or assigns, for whom such selection was made, and the title of the state of California in and to such surveyed school sections so used as bases for such indemnity selections shall vest in the United States at the date of such listing to the state and the title of the said state shall be deemed to be released and quitclaimed to the said United States at the time of such listing to the state as aforesaid.

§ 2. This act shall take effect from and after its passage.

ACT 2875.

An act to authorize the settlement of an existing controversy between the United States of America and state of California, and making an appropriation to carry out the provisions of said act. [Approved March 21, 1907. Stats. 1907, p. 840.]

This act was passed to settle a claim by the United States that 40,000 acres of the public domain in excess of the just amount had been listed to the state.

ACT 2876.

An act to authorize the state of California to release and convey to the United States such portions of the sixteenth and thirty-sixth sections of land contained in the Cleveland national forest, formerly San Jacinto forest reserve (and referred to in that certain act entitled "An act to authorize the settlement of an existing controversy between the United States of America and the state of California, and making an appropriation to carry out the provisions of said act," approved March 21, 1907) as may remain after the settlement referred to in said act has been consummated, for the purpose of reimbursing the United States for lands surrendered to it by the state and which said lands so surrendered were thereafter sold and patented by said state. [Approved March 20, 1909. Stats. 1909, p. 578.]

TITLE 403.**PUBLIC MUSEUMS.****ACT 2876a.**

An act to provide for the establishment and maintenance of public museums of natural and historical objects within municipalities of the fourth, fifth, and sixth class. [Approved March 20, 1909. Stats. 1909, p. 547.]

TITLE 404.**PUBLIC PARKS.****ACT 2877.**

To authorize the common councils and boards of supervisors of the several cities, counties, and cities and counties in this state to levy taxes for the maintenance of public parks having an area of over ten acres each within their respective limits. [Approved March 8, 1887. Stats. 1887, p. 52.]

ACT 2878.

To enable incorporated "cities and counties" and "cities" and "towns," to acquire, maintain and improve public parks and boulevards. [Approved March 19, 1889. Stats. 1889, p. 361.]

Citations. Cal. 182/874, 875; 151/574; 153/292, 293, 295.

"See *Oakland v. Thompson*, 84 Cal. Dec. 91."—Code Commissioners' Note.

ACT 2879.

To provide for the maintenance and support of the public parks heretofore created within the various cities and cities and counties of the state, and to amend the existing acts in relation thereto. [Approved March 14, 1889. Stats. 1889, p. 143.]

Amended 1893, pp. 79, 843.

ACT 2880.

Authorizing the commissioners of any public park in this state, and especially the park commissioners of Golden Gate Park, in San Francisco, to accept donations and bequests in aid of the improvement and embellishment of their respective parks, and to invest the funds derived therefrom. [Approved March 9, 1885. Stats. 1885, p. 38.]

ACT 2881.

To authorize cities and towns owning public parks outside of their limits, to lay out, construct, and maintain roads, streets, and boulevards from the boundaries of such cities or towns to, into, and through such parks, and to acquire lands for that purpose. [Became a law, under constitutional provision, without governor's approval, March 1, 1897. Stats. 1897, p. 45.]

ACT 2882.

To extend the jurisdiction and authority of cities and towns over parks owned by them situated beyond the limits of such cities and towns, and over streets and avenues leading to the same. [Became a law, under constitutional provision, without the governor's approval. March 1, 1897. Stats. 1897, p. 47.]

ACT 2883.

Giving the consent of the state of California to the reservation of certain lands by Congress. [Approved March 14, 1891. Stats. 1891, p. 107.]

This act granted the consent of the state to forest reservations.

ACT 2884.

An act to provide for the acquisition by municipalities of land for public park or public playground purposes by condemnation, and for the establishment of assessment districts and the assessment of property therein to pay the expense of acquiring such land. [Approved April 22, 1909. Stats. 1909, p. 1066.]

ACT 2885.

An act to authorize the governor to accept on behalf of the state the grant of certain lands in Butte county. [Approved March 22, 1909. Stats. 1909, p. 666.]

This act authorized the state to accept a grant of lands in Butte County by Annie E. K. Bidwell for a park.

TITLE 405.**PUBLIC WORKS.**

Hours of labor on: See tit. "Hours of Labor," ante.

ACT 2888.

Creating a commissioner of public works, defining his duties and powers, prescribing his compensation and making an appropriation. [Stats. 1893, p. 345.]

Amended 1897, p. 26. Repealed 1899, p. 157; 1900, p. 20.
Citations. Cal. 125/414.

ACT 2889.

Creating a commissioner of public works, defining his duties and powers and fixing his compensation. [Stats. 1899, p. 157.]

Superseded by 1900, p. 20.

ACT 2890.

An act creating a commissioner of public works, defining his duties and powers, and fixing his compensation. [Approved February 9, 1900. Stats. 1900, p. 20.]

Repealed 1907, pp. 215, 228.

ACT 2891.

An act providing for the appointment of an auditing board to the commissioner of public works, authorizing and directing him and them to perform certain duties relating to drainage, to purchase machinery, tools, dredges, and appliances therefor, to improve and rectify water channels, to erect works necessary and incident to said drainage, to condemn land and property for the purposes aforesaid, making certain acts a felony, and making an appropriation of money for the purposes of this act. [Approved March 17, 1897. Stats. 1897, p. 171.]

Amended 1900, p. 21; 1901, p. 91.

Repealed 1907, pp. 215, 224.

Citations. Cal. 125/415.

ACT 2892.

An act authorizing the commissioner of public works to obtain a right of way for a canal to divert the waters of Mormon channel into the Calaveras River, to maintain condemnation suits therefor, and making an appropriation to pay for said right of way and the costs and expenses of obtaining the same. [Approved March 25, 1903. Stats. 1903, p. 476.]

See Act 2893a.

ACT 2893.

To provide for, insure, and maintain preference in the appointment, employment, and retention in the public service, and upon public works of the state of California, of honorably discharged ex-Union soldiers, sailors, and marines of the war of the rebellion. [Approved March 31, 1891. Stats. 1891, p. 289.]

ACT 2893a.

An act to furnish, grant, convey and relinquish to the United States of America the right of way in San Joaquin county now (or hereafter) obtained by the commissioner of public works under an act of the legislature, approved March 25, 1903, entitled "An act authorizing the commissioner of public works to obtain a right of way for a canal to divert the waters of Mormon channel into the Calaveras River, to maintain condemnation suits therefor, and making an appropriation to pay for said right of way, and the costs and expenses of obtaining the same," and under the laws of the state of California relating to such matters, for the purpose of the construction and completion of such right of way by the United States of America of a diverting canal east of the city of Stockton from the Mormon channel to the Calaveras River and along the channel of the Calaveras River to the San Joaquin River, pursuant to an act of Congress of June 13, 1902, and to subsequent acts of Congress relating thereto, and to authorize the commissioner of public works and the governor of the state to execute conveyances thereof, and to authorize and direct the secretary of state to countersign

and make delivery of the same to the United States of America.
[Approved June 9, 1906. Stats. 1906, p. 13.]

ACT 2894.

An act fixing the minimum rate of compensation for labor on public work.

[Approved March 9, 1897. Stats. 1897, p. 90.]

Citations. Cal. 119/578; 127/102; 186/532.

§ 1. The minimum compensation to be paid for labor upon all work performed under the direction, control, or by the authority of any officer of this state acting in his official capacity, or under the direction, control, or by the authority of any municipal corporation within this state, or of any officer thereof acting as such, is hereby fixed at two (2) dollars per day; and a stipulation to that effect must be made a part of all contracts to which the state, or any municipal corporation therein, is a party; provided, however, that this act shall not apply to persons employed regularly in any of the public institutions of the state, or any city, city and county, or county.

§ 2. This act shall take effect immediately.

ACT 2895.

An act to secure the payment of the claims of materialmen, mechanics, or laborers, employed by contractors upon state, municipal, or other public work.

[Approved March 27, 1897. Stats. 1897, p. 201.]

Citations. Cal. 129/894; 188/28, 24; 185/637.

§ 1. Every contractor, person, company, or corporation, to whom is awarded a contract for the execution or performance of any building, excavating, or other mechanical work, for this state, or by any county, city and county, city, town, or district therein, shall, before entering upon the performance of such work, file with the commissioners, managers, trustees, officers, board of supervisors, board of trustees, common council, or other body by whom such contract was awarded, a good and sufficient bond, to be approved by such contracting body, officers, or board, in a sum not less than one-half of the total amount payable by the terms of the contract; such bond shall be executed by the contractor, and at least two sureties, in an amount not less than the sum specified in the bond, and must provide that if the contract, person, company, or corporation, fails to pay for any materials or supplies furnished for the performance of the work contracted to be done, or for any work or labor done thereon of any kind, that the sureties will pay the same, in an amount not exceeding the sum specified in the bond; provided, that such claims shall be filed as hereafter required.

§ 2. Any materialman, person, company, or corporation, furnishing materials or supplies, used in the performance of the work contracted to be executed or performed, or any person who performed work or labor

upon the same or any person who supplies both work and materials, and whose claim has not been paid by the contractor, company, or corporation, to whom the contract has been awarded, shall, within thirty days from the time such work is completed, file with the commissioners, managers, trustees, officers, board of supervisors, board of trustees, common council, or other body by whom such contract was awarded, a verified statement of such claims, together with a statement that the same has not been paid. At any time within ninety days after the filing of such claim, the person, company, or corporation filing the same may commence an action against the sureties on the bond, specified and required by section 1 hereof.

§ 3. This act shall take effect immediately.

ACT 2896.

An act to regulate the erection of public buildings and structures.

[Approved April 1, 1872. Stats. 1871-72, p. 925.]

Citations. Cal. 47/510; 122/297; 141/895.

Plans and specifications. Advertisement.

§ 1. When by any statute of this state power is given to any state or county officer or officers, or to any board of supervisors or corporation, or any board of trustees or commissioners, or other person or persons created or appointed by authority of any such statute, to erect, or cause to be erected or constructed, any state or county or other building or structure, it shall be the duty of said officer or officers, board of supervisors, corporation, or board of trustees, or commissioners, or other person or persons, to advertise for plans and specifications in detail for said building or other structure, and to state in said advertisement the amount authorized by law or otherwise to be expended for the erection of said building or structure; and also the premium to be awarded to the architect whose plans and specifications for the same may be adopted.

Architect's bond for contract.

§ 2. Whenever the plans and specifications of any architect shall be adopted, such officer or officers, board of supervisors, or corporation, or board of trustees or commissioners, or other person or persons so adopting the same, shall, before any premium shall be awarded for such plans and specifications, require such architect to execute and file with such officer or officers, board of supervisors, corporation, or board of trustees or commissioners, or other person or persons, a good and sufficient bond, with two sufficient sureties thereto, in the penal sum of five thousand dollars, to be approved by such officer or officers, board of supervisors, corporation, or board of trustees, or commissioners, or other person or persons, as the case may be, and conditioned that within sixty days from the date of said bond he will, on presentment to him, enter into a contract containing such provisions and conditions as may be required by such officer or officers, board of supervisors, corporation, or board of trustees, or commissioners, or other person or persons; and also

conditioned that he will give such further bond to secure the faithful performance of such contract, with such sureties as may be required of him, in the event that such officer or officers, board of supervisors, corporation, or board of trustees or commissioners, or other person or persons, so acting under authority of law, should, within said sixty days, require said architect to enter into such contract to erect such building or structure, at the price named in said advertisement to be expended for such purpose. In case said architect whose plans and specifications are adopted should enter into such contract, it shall be the duty of such officer or officers, board of supervisors, corporation, or board of trustees or commissioners, or other person or persons, to employ a competent architect or superintendent to superintend the erection of such building or structure, and to see that such plans and specifications are faithfully carried out.

When contracts void.

§ 3. All contracts entered into by such officer or officers, board of supervisors, corporation, board of trustees, commissioners, or other person or persons, in violation of the provisions of this act, shall be null and void.

§ 4. This act shall take effect and be in force from and after its passage.

Superseded as to state officers and works by the following act:

ACT 2897.

An act to regulate contracts on behalf of the state, in relation to erections and buildings. [Approved March 23, 1876. Stats. 1875-76, p. 427.]

Amended 1891, p. 457; 1895, p. 287; 1905, p. 416; 1907, p. 225. Repealed 1909, p. 656.

Citations. Cal. 111/582, 587; 125/591, 592.

See Act 2901, post.

ACT 2898.

An act to provide for the completion of all unfinished county, city, city and county, town, and township buildings in the several counties, cities and counties, cities, and towns, throughout the state of California.

[Approved March 10, 1887. Stats. 1887, p. 95.]

Amended 1891, p. 83; 1893, p. 126; 1895, p. 166.

Citations. Cal. 96/290; 128/129.

Construction of unfinished buildings.

§ 1. In the event that the board of supervisors of the several counties, cities, and cities and counties of the state of California shall deem it expedient to continue the construction of any unfinished county, or city and county, or town, or township building or buildings now in the

process of construction, they are hereby authorized and empowered to express such judgment, by resolution or order, in such form as they may deem proper; and for the purpose of raising the money necessary to complete said building or buildings the board of supervisors of the several counties, cities, and cities and counties of the state of California are hereby authorized and empowered to levy and collect, annually, for the fiscal year commencing July first, eighteen hundred and eighty-seven, and ending June thirtieth, eighteen hundred and eighty-eight, and each and every fiscal year thereafter during the eight fiscal years next ensuing, in the same manner and at the same times as other taxes in said counties, cities, and towns, and townships, and cities and counties are levied and collected, an ad valorem property tax on real and personal property within the said counties, or cities and counties, cities, towns, and townships, of ten cents on each one hundred dollars of value, as shown by the assessment rolls of said counties, cities, cities and counties, towns, and townships for the current fiscal year; provided, the moneys raised under the provisions of this act shall be expended only in the manner and for the purposes authorized by law or by the act or acts authorizing the construction of the building or buildings; and provided further, that no part of said moneys shall be used for the purchase of carpets, furniture, fixtures, or other office furnishings of the rooms or offices completed and in use at the time of the passage of this act, nor for any furniture or other office fixtures or furnishings for the rooms or offices yet to be completed, save and except such office fixtures as are usually affixed to and constitute a part of the permanent structure or arrangement of such offices or rooms; and it is further provided, that whenever, in the judgment of the board of supervisors of the several counties, cities, and cities and counties, of the state of California, or of any person or persons, board, or commission having charge of any building or buildings now in the process of construction, it shall be deemed necessary for the preservation of the building or buildings, or convenient occupation thereof, or the improvement or maintenance of sanitary conditions therein, or the protection of life, to make repairs on said building or buildings, or alterations thereof not inconsistent with the accepted plan of the building or buildings, the board of supervisors, person or persons, board, or commission having legal charge of the same, shall have the power to expend in any one year on such repairs or alterations, exclusive of the cost of repairs or alterations on the roof or roofs thereof, the sum of ten thousand dollars, and no more; which sum may be expended without regard to any of the requirements of any act or acts authorizing the construction of the building or buildings, if the amount expended at any one time does not exceed the sum of one thousand dollars; but whenever an expenditure in excess of the sum of one thousand dollars should be required, it shall be made according to the provisions of the act or acts authorizing the construction of the building or buildings. [Amendment approved March 26, 1895. Stats. 1895, p. 166. In effect immediately.]

Also amended in 1891, Stats. 1891, p. 88, and in 1898, Stats. 1893, p. 126.

§2. All laws now in force, except in so far as they relate to the levy and collection of taxes for the completion of any county, or city and county, or city, or towns, or townships building or buildings, are hereby continued in full force and effect.

ACT 2899.

An act concerning the completion of unfinished public buildings in any county, city, city and county, or town in this state, and permitting alterations of the original plans or designs for the construction thereof.

[Approved March 26, 1895. Stats. 1895, p. 165.]

§1. Where there are any unfinished public building or buildings now in process of construction in any county, city, city and county, or town in this state, the board of supervisors or other governing body of any county, city, city and county, or town, or any commission created by an act of the legislature, having in charge the construction of such unfinished building, shall have the right in the construction thereof to omit from the original or adopted plan therefor such part or parts as in their judgment they shall deem necessary to be left out; provided, no contract has been let for the construction of such part or parts. If, in the judgment of such officers, the public good requires, they may let contracts according to law for the construction, in whole or in part, of the unfinished portions of such public building or buildings in accordance with such altered plan. When the same shall have been constructed in accordance with such altered plan, the building shall be deemed to have been completed.

§2. Whenever, during the construction of such public building or buildings, changes in the original plans or designs have heretofore been made, and contracts for the construction of the work, in whole or in part, in accordance with the altered plans or designs, have been entered into by the board of supervisors, or other governing body of any county, city, city and county, or town, or by the commission having the construction thereof in charge, the said alteration of the original plans or designs that have been made and contracts for same that have been entered into, are hereby ratified, approved, and confirmed.

§3. This act shall take effect from and after its passage.

ACT 2900.

An act authorizing the incurring of indebtedness by cities, towns, and municipal corporations, incorporated under the laws of this state, for the construction of waterworks, sewers, and all necessary public improvements, or for any purpose whatever, and to repeal the act approved March 9, 1885, entitled "An act to authorize municipal corporations of the fifth class, containing more than three thousand and less than ten thousand inhabitants, to obtain waterworks," also to repeal an act approved March 15, 1887, entitled "An act

authorizing the incurring of indebtedness by cities, towns, and municipal corporations, incorporated under the laws of this state."

[Approved March 19, 1889. Stats. 1889, p. 399.]

Amended 1891, pp. 84, 94, 132; 1898, p. 91.

Of the last amendment, the code commissioners say: "This latter amendment attempted to be repealed by 1897, p. 97, but such repeal declared unconstitutional in *City of Los Angeles v. Hance*, 122 Cal. 78."

Citations. Cal. 91/550; 95/112; 99/147; 104/519, 521, 523; 107/400, 465, 466, 469, 470, 473; 119/625, 626; 121/103; 122/78; 125/623, 624; 126/280, 281; 130/279; 135/451, 452, 453, 454; 136/146; 138/243; 142/699, 700, 701; 144/893; 151/180; 153/291, 294.

Municipal corporations may incur indebtedness.

§ 1. Any city, town or municipal corporation, incorporated under the laws of this state, may, as hereinafter provided, incur indebtedness to pay the cost of any municipal improvement, or for any purpose whatever requiring an expenditure greater than the amount allowed for such improvement by the annual tax levy.

Manner of procedure.

§ 2. Whenever the legislative branch of any city, town, or municipal corporation shall, by ordinance passed by a vote of two-thirds of all its members, and approved by the executive of said city, town, or municipal corporation, determine that the public interest or necessity demands the acquisition, construction, or completion of any municipal buildings, bridges, waterworks, water rights, sewers, or other municipal improvements, the cost of which will be too great to be paid out of the ordinary annual income and revenue of the municipality, they may, after the publication of such ordinance for at least two weeks in some newspaper published in such municipality, and at their next regular meeting after such publication, or at an adjourned meeting, by ordinance passed by a vote of two-thirds of all its members, and also approved by the said executive, call a special election and submit to the qualified voters of said city, town, or municipal corporation, the proposition for the purpose set forth in the ordinance, and no question other than the incurring of indebtedness for said purpose shall be submitted. The ordinance calling such special election shall recite the objects and purposes for which the indebtedness is proposed to be incurred, the estimated cost of the proposed public improvement, the necessity for such improvement, and that the bonds of the municipality shall issue for the payment of the cost of such improvement, as in such ordinance set forth, if the proposition be accepted by the qualified voters, as hereinafter provided, and shall fix the day on which such special election shall be held, the manner of holding such election, and the voting for or against incurring such indebtedness; such election shall be held as provided by law for holding such elections in such city, town, or municipal corporation; provided, however, that where by the terms or provisions of the charter of any city, town, or municipal corporation, the cost of making the proposed improvements is to be or must be paid from a special fund

created by such charter for that purpose, the proposition of incurring such an indebtedness may be submitted to the qualified voters at any general election for officers of the state of California or of such city, town, or municipal corporation. [Amendment approved March 11, 1891. Stats. 1891, p. 94.]

Publication of intention to incur indebtedness.

§ 3. Such ordinance shall be published once a day for at least ten days, or once a week for two weeks, before the publication of the notice of the special election, in some newspaper published in such municipality. After said publication, said legislative body shall cause to be published, for not less than two weeks, in at least one of the newspapers published in such municipality, a notice of such special election, the purpose for which the indebtedness is to be incurred, the number and character of the bonds to be issued, the rate of interest to be paid, and the amount of tax levy to be made for the payment thereof. It shall require the votes of two-thirds of all the voters voting at such special election to authorize the issuance of the bonds herein provided.

Plans and estimates of improvements.

§ 4. It shall be the duty of the legislative branch of any municipality contemplating permanent public improvements, to first have plans and estimates of the cost of such improvements, made by a competent engineer or architect who has had successful experience in such work, before the question of incurring an indebtedness for such improvement is submitted to vote.

Limit of indebtedness.

§ 5. No city, town, or municipal corporation shall incur an indebtedness for public improvements which shall, in the aggregate, exceed fifteen per cent of the assessed value of all the taxable real estate and personal property of such city, town, or municipal corporation. [Amendment approved March 11, 1891. Stats. 1891, p. 84.]

Character of bonds.

§ 6. All municipal bonds for public improvements issued under the provisions of this act shall be of the character of bonds known as serials, and shall be payable in gold coin or lawful money of the United States, in the manner following: One fortieth part of the whole amount of indebtedness shall be paid each and every year, on a day and at a place to be fixed by the legislative branch of the municipality issuing the bonds, together with the interest on all sums unpaid at such date. The bonds shall be issued in such denominations as the legislative branch of the municipality may determine, except that no bonds shall be of a less denomination than one hundred dollars nor of a greater denomination than one thousand dollars each, payable on the day and at the place fixed in such bond, and with interest at the rate specified in the bond, which rate shall not be in excess of the legal rate of the state of California, and may be payable annually or semi-annually. Such bonds may be issued and sold by the legislative branch of the

city, town, or municipal corporation, as they may determine, at not less than their face value, in gold coin of the United States, and the proceeds of such sale shall be placed in the municipal treasury to the credit of the proper improvement fund, and shall be applied exclusively to the purposes and objects mentioned in the ordinance, until such objects are fully accomplished, after which, if any surplus remains, such surplus shall be transferred to the general fund of such municipality. [Amendment approved March 1, 1893. Stats. 1893, p. 61. In effect immediately. Repealed all conflicting acts.]

This section was in turn repealed by the act of March 9, 1897, Stats. 1897, p. 75. This repeal was declared unconstitutional. See note at head of this act.

Rate of interest.

§ 7. The legislative branch of any city, town, or municipal corporation, issuing bonds under authority of this act, shall have the right to determine the rate of interest such bonds shall bear; provided, that in no case shall it exceed seven per cent per annum, and to name the date and place where such bonds and interest shall be paid; provided, that the place of payment shall be either at the office of the treasurer of the municipality, or at some designated bank in San Francisco, Chicago, New York, or Boston. The said bonds shall be signed by the executive of the municipality, and also by the treasurer thereof, and shall be countersigned by the clerk. The coupons of said bonds shall be numbered consecutively, and signed by the treasurer.

Tax levy.

§ 8. The legislative branch of said city, town, or municipal corporation shall, at the time of fixing the general tax levy, and in the manner for such general tax levy provided, levy and collect annually, each year, for the term of forty years, a tax sufficient to pay the annual interest on such bonds, and also one fortieth part of the aggregate amount of such indebtedness so incurred. The taxes herein required to be levied and collected shall be in addition to all other taxes levied for municipal purposes, and shall be collected at the same time and in the same manner as other municipal taxes are collected. [Amendment approved March 1, 1893. Stats. 1893, p. 61. In effect immediately. Repealed all conflicting acts.]

This section was in turn repealed by the act of March 9, 1897, Stats. 1897, p. 75. See note under § 6.

Duty of corporation.

§ 9. It shall be the duty of the legislative branch of every city, town, or municipal corporation wherein public improvements are being made under the provisions of this act, to make all needful rules and regulations for carrying out and maintaining such improvements; to appoint all needful agents, superintendents, and engineers to properly look after the construction and operation of such public works, and in all lawful ways to protect and preserve the rights and interest of the

municipality; provided, however, that in cities, towns, or municipalities operating under a charter heretofore or hereafter framed under section 8 of article XI of the constitution, and having a board of public works, all the matters and things required in this section to be done and performed by the legislative branch of the municipality shall be done and performed by the board of public works of such city, town, or municipality. [Amendment approved March 19, 1891. Stats. 1891, p. 132.]

Letting of contracts.

§ 10. All contracts for the construction or completion of any public works or improvements, or for furnishing labor or materials therefor, as herein provided, shall be let to the lowest responsible bidder. The legislative branch of the municipality shall advertise for at least ten days, in one or more newspapers published in the municipality, inviting sealed proposals for furnishing the labor and materials for the proposed improvements, before any contract shall be made therefor. The said legislative branch shall have the right to require such bonds as they may deem best, from the successful bidder, to insure the faithful performance of the contract work. They shall also have the right to reject any or all bids; provided, however, that in cities, towns, or municipalities operating under a charter heretofore or hereafter framed under section 8 of article XI of the constitution, and having a board of public works, all the matters and things required in this section to be done and performed by the legislative branch of the municipality shall be done and performed by the board of public works of such city, town, or municipality. [Amendment approved March 19, 1891. Stats. 1891, p. 132.]

Additional bonds of treasurer.

§ 11. Whenever the legislative branch of any municipality shall, by resolution, deem it necessary, they may require the treasurer of such municipality to give additional bonds for the safe custody and care of the public funds.

Repealing acts 1885, 1887.

§ 12. The act approved March ninth, eighteen hundred and eighty-five, entitled An act to authorize municipal corporations of the fifth class, containing more than three thousand and less than ten thousand inhabitants, to obtain public waterworks, and the act approved March fifteenth, eighteen hundred and eighty-seven, entitled An act authorizing the incurring of indebtedness by cities, towns, and municipal corporations, incorporated under the laws of this state, and all general acts, or special acts, or parts of acts, conflicting with this act, are hereby repealed.

§ 13. This act shall take effect and be in force from and after its passage.

The act of March 15, 1887, was also amended by act approved February 16, 1889, Stats. 1889, p. 14.

ACT 2901.

An act to regulate contracts on behalf of the state in relation to the erection, construction, alteration, repair or improvement of any state structure, building, road, or other state improvement of any kind and to repeal an act entitled "An act to regulate contracts on behalf of the state in relation to erections and buildings," approved March 28, 1876.

[Approved March 22, 1909. Stats. 1909, p. 656.]

Control of construction of public buildings.

§ 1. Whenever provision is made by law for the erection, construction, alteration, repair or improvement of any state structure, building, road or other state improvement of any kind excepting improvements on the property of the state on the waterfront of the city and county of San Francisco under the jurisdiction of the board of state harbor commissioners, the total cost of which will exceed the sum of one thousand dollars, the same shall be under the sole charge and direct control of the department of engineering. Said department, before entering into any contract for the erection, construction, alteration, repair or improvement of any state structure, building, road or other state improvement of any kind shall prepare full, complete and accurate plans and specifications and estimates of cost, giving such directions for the same as will enable any competent mechanic or other builder to carry them out. The plans, specifications and estimates of cost must be approved by the advisory board of the department of engineering and the original draft thereof filed permanently in the office of the department of engineering before further action is taken.

Contracts. Registration of prospective bidders.

§ 2. Said department of engineering shall, after the approval and filing of plans, specifications and estimates of cost as in this act required, let such work by contract to the lowest responsible bidder or bidders upon public notice which shall be given as follows: Notice of such work must be published once a week for three consecutive weeks next preceding the day set for the receiving of bids in a paper having a general circulation in the county where the work is to be done. Provided, that in a record kept for that purpose the state engineer shall register anyone desiring to be so registered for the purpose of becoming a prospective bidder upon state work, which registration shall be renewed on or before the beginning of each fiscal year, and whenever any state work is to let by contract the state engineer shall cause a notice of the same to be mailed to each of the addresses so registered at least twenty-five days prior to the date set for the receiving of bids. In each case such notice must state the time and place for the receiving and opening of sealed bids and must also state that bids will be received for the entire work and also, where possible, for the performance of each of the following parts thereof, viz.: first, for the masonry work, including all brick, stone, terra cotta, and concrete work, and all necessary excavations, and filling; second, for the iron work; third, for

the carpenter, electric and glazing work; fourth, for the plastering work; fifth, for the plumbing and gas-fitting work; sixth, for the heating work; seventh, for the tinning, galvanized iron, and slating work; eighth, for the painting and graining work.

Award of contracts. Work may be by day's labor.

§ 3. On the day named in said public notice the department of engineering shall proceed to publicly open said sealed bids and shall award such contract or contracts to the lowest responsible bidder or bidders. No bid shall be considered unless accompanied with a bond of said bidder equal to ten per cent of his bid with sufficient sureties, conditioned that if said bid shall be accepted the party bidding will duly enter into a proper contract and faithfully perform his or their contract or contracts, in accordance with said bid, and the plans and specifications, which shall be and are hereby made a part of such contract or contracts. Such contract or contracts shall not be binding on the state until they are submitted to the attorney general, and by him found to be in accordance with the provisions of this act, and his certificate thereon to that effect made. If in the opinion of such department of engineering the acceptance of the lowest responsible bid or bids shall not be for the best interests of the state, it may be lawful for them to reject all bids and advertise for others in the manner aforesaid. But after the approval of the plans, specifications and estimates of costs by the advisory board of the department of engineering, if, in the opinion of such department of engineering the acceptance of any bid or bids shall not be for the best interests of the state, or if in the opinion of such department of engineering the acceptance of any further bids after the rejection of all bids submitted shall not be for the best interests of the state, it may be legal for them to direct that the erection, construction, alteration, repair, or improvement of any state structure, building, road, or other state improvement of any kind shall be done by day's labor, under the direction and control of the department of engineering. All contracts shall provide that such department of engineering may, as hereinafter provided, and on the conditions stated, make any change in the plans and specifications. Certified copies of such contracts shall be filed with the controller and the board of examiners.

Change of plans.

§ 4. After the contract or contracts are let no change shall be made to increase or diminish the cost of any contract in excess of five hundred dollars, except upon the approval of the advisory board of the department of engineering, and then only upon additional plans and specifications and estimates of cost being filed and approved, and amended contracts entered into and filed with the original contract.

Estimates must not be exceeded.

§ 5. No contract or contracts shall be made exceeding in amount the estimates of costs approved by the advisory board of the department of engineering and no plans and specifications and estimates of cost

including expense of advertising and inspection, shall be approved by said board requiring a greater expenditure of money than is appropriated for the specific purpose in the act authorizing the same.

Payments upon contracts.

§ 6. Payments upon contract shall be made as the department of engineering may prescribe upon estimates made and approved by the said department and audited by the board of examiners, but no payment shall be made in excess of ninety per cent of the percentage of actual work completed, to which has been added one-half of the value of material delivered on the ground and unused. The department of engineering shall withhold not less than ten per cent of the contract price until final completion and acceptance of the work. The controller shall draw his warrants upon estimates so made and approved by the department of engineering and audited by the board of examiners and the state treasurer shall pay the same.

Injury to state a felony.

§ 7. Any member of the advisory board or person employed under the department of engineering who shall knowingly perform any official act to the injury of the state, or any contractor or his agent or employee who shall knowingly permit the violation of the contract of such contractor to the injury of the state, or any agent or employee of any contractor who shall have knowledge of any work being done in violation of contract and does not immediately notify the department of engineering or the inspector upon said work in regard to the same is guilty of a felony and, upon conviction thereof, shall be confined in the state prison for not less than one year nor more than five years, and be liable to the state for double the amount the state may have lost, or be liable to lose by reason thereof.

Neglect of work under contract.

§ 8. Whenever, in the opinion of the department of engineering, the work under any contract made in pursuance of this act, is neglected by the contractor or contractors, or the same is not prosecuted with diligence and force specified or intended in and by the terms of the contract, it shall be lawful for such department of engineering to make a requisition upon such contractor or contractors for such additional specific force, or for such additional specific material, to be brought into the work under such contract, or to remove improper materials from the grounds; of which action of said department of engineering due notice in writing of not less than five days, shall be served upon such contractor, or his or their agent having charge of the work. If such contractor or contractors fail to comply with such requisition within fifteen days, it shall be lawful for said department of engineering to employ upon such work the additional force, or supply the materials so specifically required as aforesaid, or such part of either as they may deem proper, and to remove improper materials from the grounds; and it shall be the duty of such department of engineering to make separate esti-

mates of all such additional force or materials so employed or supplied as aforesaid, and the amount so estimated shall be charged against said contractor or contractors, and deducted from his or their next, or any subsequent, estimate; or the same, or any part thereof, not paid as aforesaid, may be recovered by action from such contractor or contractors, and their sureties.

Time limits in contracts. Bonds.

§ 9. In all contracts made under the provisions of this act, there shall be a provision in regard to the time when the whole, or any specified portion, of the work contemplated in said contract shall be completed, and also providing that for each and every day the same shall be delayed beyond such time or times so named, the said contractor or contractors, shall forfeit and pay to the state a sum of money, to be fixed and determined in said contract, to be deducted from any payment or payments due, or to become due, to said contractor or contractors. Any such contract shall provide for the filing of a sufficient bond by the contractor to secure the payment of the claims of materialmen, mechanics, or laborers employed upon state work; a penalty of ten dollars per day to be forfeited to the state for each calendar day during which any laborer, workman or mechanic is employed or permitted to labor more than eight hours; a minimum compensation of not less than two dollars per day for labor; that no Chinese or Mongolian labor shall be employed and such other provisions as are now or may hereafter be provided by law.

Act of 1876 repealed.

§ 10. An act entitled "An act to regulate contracts on behalf of the state in relation to erections and buildings," approved March 23, 1876, and all acts amendatory thereto are hereby repealed, and all other acts or parts of acts in conflict with the provisions of this act are hereby repealed. Such repeal shall not affect, however, the operation of any other act heretofore passed, whether such act shall refer to the act hereby repealed or not, so as to exempt any public work from the provisions of this act.

Causes of action continued.

§ 11. All of the provisions of this act shall be so construed as to preserve and keep in full force and effect all causes of action and actions for penalties which have already accrued or may hereafter accrue under any contract, heretofore entered into, against any contractor or person under and by virtue of the provisions of said act entitled "An act to regulate contracts on behalf of the state in relation to erections and buildings," approved March 23, 1876, which is repealed by virtue of this act, and all such actions and causes of action may be prosecuted to final judgment and all such penalties may be imposed and collected under the provisions of said act so repealed to the same extent and in the same manner as though said act had not been repealed.

§ 12. This act shall take effect immediately.

ACT 2902.

An act authorizing any incorporated city, town or municipal corporation, to construct, equip, use, maintain and operate any works, road, railroad, tramway, power plant, telephone or telegraph line, or other necessary works or structures, for the preparation, manufacturing, handling or transporting of materials or supplies required in the construction or completion of any public work, improvement or utility, and to lease, acquire, by purchase, condemnation or otherwise, and hold and use lands and other necessary property for said purposes.

[Approved March 18, 1907. Stats. 1907, p. 597.]

§ 1. Any incorporated city, town or municipal corporation in this state is hereby authorized to construct, equip, use, maintain and operate any works, road, railroad, tramway, power plant, telephone or telegraph line, or other necessary works or structures, within or without such city, town or municipal corporation, or the county wherein such city town or municipal corporation is located, for the preparation, manufacture, handling or transporting of any materials or supplies required in the construction or completion by such city, town or municipal corporation of any public work, improvement or utility, and, for the purpose of constructing, equipping, using, maintaining or operating any such works, road, railroad, tramway, power plant, telephone or telegraph line, or other necessary works or structures, such city, town or municipal corporation is hereby authorized to lease or acquire, by purchase, condemnation or otherwise, and hold and use any land, rights of way, water, water rights, quarry, gravel-bed or other mineral deposits, or any other necessary property, within or without such city, town or municipal corporation, or the county wherein such city, town or municipal corporation is located.

§ 2. Nothing in this act contained shall be construed as extending or enlarging any limitation prescribed by law or municipal charter upon taxation, expenditure of public funds, or the incurring of indebtedness, by any city, town or municipal corporation.

§ 3. This act shall take effect immediately.

TITLE 406.**PUTAH CREEK.****ACT 2905.**

Solano and Yolo counties, protecting from overflow by Putah Creek
[Stats. 1871-72, p. 941.]

Repealed 1873-74, p. 84.

This act provided for the formation of the Yolo and Solano canal district for the purpose of protecting certain lands from overflow from Putah Creek.

TITLE 407.
QUARANTINE.

ACT 2910.

An act to regulate quarantine, and the admission of horses, cattle, sheep, and swine into the state of California from infected districts.

[Approved March 19, 1889. Stats. 1889, p. 375.]

Quarantine against entry of domestic animals.

§ 1. The state board of health shall be empowered to declare quarantine against the entry of domestic animals from any state or territory, or any foreign port or country, in which contagious or infectious diseases are known to exist; said infected parts to be named in the proclamation.

Entry of, through state board of health.

§ 2. All domestic animals coming into the state from districts mentioned in section 1 must be required to enter the state at such points only as the state board of health may by proclamation determine, and designate where they must be unloaded for inspection.

Evidence of owners.

§ 3. All owners of domestic animals coming into this state from localities quarantined against will be required to furnish the following evidence that such animals are free from disease:

First—The affidavit of two disinterested parties, who have known such animals for a period of four months prior to the date of shipment, that they have been healthy, and exposed to no contagious disease, and that no contagious disease is known or believed to exist in the district or country from which they came.

Second—The certificate of the county clerk of the county that persons making such affidavit are responsible and reputable citizens of the county.

Third—The affidavit of the owner or person in charge, made at the point of entry, that such domestic animals are the identical animals described in the foregoing affidavits, and that shipment has been direct and without unloading, except for food and water, and in cleansed and disinfected cars.

Affidavit of owners.

§ 4. Owners or persons in charge of domestic animals from localities not named in such proclamation must certify, under oath, that such domestic animals have been kept in one place for a period of four months immediately preceding the date of shipment (giving the name of the town and county and state, territory, or country), and have not been exposed to any contagious disease for a period of three months prior to the date of shipment.

Evidence to be submitted.

§ 5. All the foregoing evidence to be submitted to the state veterinarian, or an authorized inspector of the state, when permits for shipments in this state shall be issued.

Quarantined calves.

§ 6. Dealers' calves gathered in quarantined states or territories will be quarantined at the points of entry.

Domestic animals.

§ 7. Domestic animals not receiving permits for shipment, and retained in quarantine, will be held at the owner's risk and expense.

Same.

§ 8. All domestic animals arriving at points of entry shall be inspected free of charge to the owner.

Railway company must have permit.

§ 9. No railway company doing business in this state shall receive for shipment into this state any domestic animals unless accompanied by a permit signed by an authorized inspector.

Cattle, when not to enter state.

§ 10. No cattle shall enter this state from Texas, New Mexico, or Mexico, for grazing purposes during the months of March, April, May, June, July, August, September, October and November in each year.

Shipment for slaughter.

§ 11. All cattle from those parts mentioned in section 10 entering this state during the months mentioned in section 10, and intended for butchering purposes, shall pass from the point of entry into the slaughter-house yard, which yard shall be specially constructed and isolated for the purpose of receiving such stock. The stock shall be unshipped in said yard direct from the cars running into the yards for that purpose.

Character of cars.

§ 12. Said cattle shall moreover be shipped in specially constructed cars, which will prevent the dropping of manure and urine on the tracks during transit, and in unshipping such cattle the cars shall be thoroughly disinfected with carbolyzed whitewash.

When may be unshipped.

§ 13. All cattle entering this state for the purposes mentioned in section 11 shall only be unshipped between the point of entry and destination at places set apart by the state board of health in its proclamation; and no native stock shall be allowed at any time to enter said places; said places shall be, moreover, thoroughly disinfected in such manner as the state board of health may direct.

Violation of act.

§ 14. Any person or persons, corporations, or firms, who shall violate any of the provisions of this act shall be liable for all damages sustained, and a fine of one thousand dollars, to be recovered in any court of competent jurisdiction, on account of any contagious or infectious disease being communicated from any diseased animal to any other animal in the neighborhood, or along the line of such transporta-

tion of such diseased animals into or through this state, or from one part thereof to another; and the existence or presence of such contagious or infectious disease among the native cattle of this state on the same ranch with or in the vicinity of any such diseased animals, or along the line or route over which they were transported, shall be prima facie evidence that the same were affected with such disease at the time of being so removed or transported, and communicated it to such native domestic animals so affected therewith.

Definition.

§ 15. The words "domestic animals," whenever used in this act, shall be construed to mean and include horses, mules, asses, cattle, sheep, goats and swine.

Inspectors to be appointed.

§ 16. The state board of health are hereby authorized to appoint one inspector for each of the points of entry by railroad communication into this state, who shall reside at such point as may be designated by the state board of health, and shall receive such compensation for actual services as may be determined by said board, not to exceed one hundred dollars per month; such compensation to be paid out of any moneys in the state treasury not otherwise appropriated, upon the warrants of the controller of state drawn upon the certificate of the state board of health allowing the same.

§ 17. This act shall take effect immediately.

**TITLE 408.
RAILROADS.**

ACT 2915.

To provide for incorporation of railroad companies. [Stats. 1861, p. 607.]

Amended 1862, pp. 498, 547; 1868, p. 610; 1865-66, p. 310; 1867-68, p. 705; 1869-70, p. 577. Repealed by Civil Code, § 288. See, also, Cal. Pac. R. R. Co. v. Cent. Pac. R. R. Co., 47 Cal. 528.

Citations. Cal. 41/859; 42/206; 45/812; 47/519; 49/897; 50/849; 52/59. 61; 68/469; 66/609, 611; 71/85; 75/645; 109/584; 115/590; 129/540.

ACT 2916.

Supplementing statute concerning railway corporations. [Stats. 1862, p. 498.]

Repealed by § 288, Civil Code.

ACT 2917.

Permitting and authorizing railway and other corporations organized under the laws of this state, or of any state or territory, or any act of Congress, to do business in this state on equal terms. [Stats. 1880, p. 21.]

Citations. Cal. 87/897; 116/108; 154/289.

Section 1 codified by § 407 of Civil Code. Section 2 codified by § 478a of Civil Code.

This act also authorized one railroad corporation to lease the road of another corporation and to acquire the lease of its road.

ACT 1918.

Nevada County, railroad from Colfax to Nevada City, providing for. [Stats. 1873-74, p. 492.]

ACT 1919.

Railroad from Marysville to Knight's Landing, construction of, and regulation of freights and fares. [Stats. 1873-74, p. 780.]

ACT 1920.

Commissioners of transportation, appointment of. [Stats. 1875-76, p. 783.]

Repealed 1877-78, p. 969.

Citations. Cal. 62/506.

See ante, Act 676.

ACT 1921.

An act providing for the organization of the railroad commission of the state of California, defining its powers and duties and the powers and duties of transportation companies, their officers and employees, and defining offenses by transportation companies, their officers, employees and other persons, and providing penalties therefor; and repealing an act entitled "An act to create the office of commissioner of transportation, and to define its powers and duties; to fix the maximum charges for transporting passengers and freight on certain railroads, and to prevent extortion and unjust discrimination therein," approved April 1, 1878, and also repealing an act entitled "An act to organize and define the powers of the board of railroad commissioners," approved April 15, 1880.

[Approved March 19, 1909. Stats. 1909, p. 499.]

Railroad commission, of whom composed.

§ 1. The three persons elected railroad commissioners pursuant to the provisions of section 22 of article XII of the constitution of the state, constitute and shall be known and designated as the railroad commission of the state of California. They shall have power to elect one of their number president of said board, to appoint a secretary, to appoint an assistant secretary, and to employ a stenographer.

Salaries. Expenses.

§ 2. The salary of each commissioner shall be six thousand dollars per annum; the salary of the secretary shall be three thousand dollars per annum; the salary of the assistant secretary shall be eighteen hundred dollars per annum; the salary of the stenographer shall be nine hundred dollars per annum; such salaries to be paid by the state of

California in the same manner as the salaries of state officers are paid. Said commissioners, and the persons in their official employment when traveling in the performance of their official duties, shall have their traveling expenses other than transportation paid, the amounts to be passed on by the state board of examiners, and paid by the state. Said board of railroad commissioners shall be allowed one hundred dollars per month for office rent, and fifty dollars per month for fuel, lights, postage, expressage, subscription to publications upon the subject of transportation, and other incidental expenses, to be paid by the state; provided, that all moneys remaining unexpended at the expiration of each fiscal year shall be returned to the state treasurer. The state shall furnish said board with all necessary stationery and printing, upon requisitions signed by the president of said board.

Passes.

§3. Said commissioners and the persons in their official employment shall, when in the performance of their official duties, have the right to pass free of charge on all railroads, steamers, ships, vessels and boats, and on all vehicles employed in or by any transportation company, subject to the provisions of this act, engaged in the transportation of freight and passengers within this state.

Duty of attorney general.

§4. It shall be the duty of the attorney general to institute and prosecute any and all such suits and proceedings as shall be requested of him by said board, and to appear therein, and in all suits and proceedings to which the board is a party, for said board, and said suits and proceedings shall have precedence over all other business except criminal business; provided, that said board shall have the power to employ additional counsel to assist the attorney general, or otherwise, whenever they may deem it expedient. The fees and expenses of said additional counsel shall be determined by the state board of examiners and paid by the state.

Office.

§5. The office of said board shall be in the city and county of San Francisco. Said office shall always be open (legal holidays and non-judicial days excepted). The board shall hold its sessions at least once a month in said city and county of San Francisco, and at such other times and such other places within this state as may be expedient. The sessions of said board shall be public.

Salaries how paid.

§6. The salaries of the commissioners, secretary, assistant secretary and other officers and attachés in any manner employed by the board of commissioners shall be paid out of any money in the general fund appropriated therefor.

Seal.

§7. The board shall have a seal, to be devised by its members, or a majority thereof. Such seal shall have the following inscription sur-

rounding it: "Railroad Commission, State of California." The seal shall be affixed only to, first, writs; second, authentications of a copy of a record or other proceedings, or copy of a document on file in the office of said commission.

Process.

§ 8. The process issued by said board shall extend to all parts of the state. The board shall have power to issue writs of summons and of subpoena in a like manner as courts of record. The summons shall direct the defendant to appear and answer within fifteen days from the day of service. The necessary process issued by the board may be served in any county of this state by any person authorized to serve process of courts of record.

Duty of secretary.

§ 9. The secretary of said board shall issue all process and notices required to be issued, and do and perform such other duties as the board may prescribe.

Complaints.

§ 10. All complaints before said board shall be in writing and under oath. All decisions of said board shall be given in writing, and the grounds and the decisions shall be stated. A record of the proceedings of said board shall be kept, and the evidence of persons appearing before said board shall be preserved.

Certain terms defined.

§ 11. The term "transportation company," as used in this act, shall include railroads operated for commercial purposes, express companies, sleeping-car companies, and companies operating vessels engaged in carrying freight or passengers on the waters of this state. The term "railroad" and "railroad company," as used in this act, shall include all bridges and ferries used or operated in connection with any railroad, and all the road in use by any railroad company operating a railroad, whether owned or operated under a contract, agreement, or lease, and all switches, spurs, tracks and terminal facilities, used in the transportation of persons or property, and all freight depots, yards or grounds, used in the transportation or delivery of any of said property. The term "transportation" as used in this act, shall include cars and other vehicles and all instrumentalities and facilities of shipment or carriage used by transportation companies in the movement of persons or property, irrespective of ownership, or of any contract, express or implied, for the use thereof, and all services in connection with the receipt, delivery, transfer in transit, ventilation, refrigeration or icing, storage and handling of property transported. The term "company," as used in this act, shall include corporations, associations, partnerships, trustees, assignees, and individuals.

Whenever any transportation company by water uses or operates, as incidental to the operation of its ships or boats, any barge, canal-boat,

steamer, tug, ferryboat, or lighter, the thing so incidentally used or operated shall be deemed to be part of its transportation.

Duty of commission.

§ 12. It is hereby made the duty of such railroad commission to see that the provisions of this act and all laws of this state concerning transportation companies are enforced and obeyed, and that violations thereof are promptly prosecuted, and penalties due the state therefor recovered and collected. And said commission shall report all such violations, with the facts in their possession, to the attorney general or other officer charged with the enforcement of the laws, and request him to institute the proper proceedings.

Examination of books of companies.

§ 13. The commissioners, or either of them, or such person as they may employ for that purpose, shall be authorized, at such times as they may deem necessary, to examine the books and papers of any transportation company, and to examine under oath any officer or employee of such company in respect to the business of the same. If any transportation company shall willfully refuse to permit such inspection of its books and papers, said company shall, for each offense, be subject to a penalty of five hundred dollars for each day it shall so refuse, payable to the state of California, and recoverable in an action in the name of said board of railroad commissioners by the attorney general at the request of said board, in the superior court of the county, or city and county, where said company has its principal operating office in the state of California. No person employed by said board to make such inspection shall be entitled to make the same until he shall first produce his authority therefor, in writing under the hand and seal of said commission.

Refusal to exhibit books, penalty for.

§ 14. Any officer, agent or employee of any transportation company who, upon proper demand, shall willfully fail or refuse to exhibit to the commissioners, or either of them, or any person authorized to investigate the same, any book, record, or paper of such transportation company, which is in the possession or under the control of such officer, agent or employee, shall be deemed guilty of a misdemeanor, and, upon conviction in any court having jurisdiction thereof, shall be punished by a fine in a sum not less than five hundred dollars and not to exceed \$2,000.

Witnesses, pay of.

§ 15. The said commission is authorized to investigate any breach of the provisions of this act, and to issue subpoenas for the attendance of the witnesses, and each of said witnesses so subpoenaed shall receive for his attendance before the commission \$2 per day and three cents per mile for the distance, by the nearest practicable route, in going to and returning from the place of meeting of said commission, and said

witness fees shall be ordered paid by the state controller, upon presentation of proper vouchers sworn to by the witness and approved by the chairman of the commission; provided, that the chairman of said commission shall not approve any such voucher in the case of a witness subpoenaed at the instance of parties other than the commission, unless it shall appear to said chairman that the testimony of such witness was material to the matter investigated. In case any witness shall fail or refuse to obey such subpoena, the commission may issue an attachment for said witness, directed to any sheriff or constable in the state of California, to compel such witness to attend before the commission and give his testimony in respect to the matter investigated. No person shall be excused from attending and testifying, or from producing books and papers in obedience to said subpoena on the ground that the testimony or evidence required of him may tend to incriminate him, but no person shall be prosecuted, punished or subjected to any penalty or forfeiture for or on account of any transaction, matter or thing concerning which he may testify or produce evidence, documentary or otherwise, before said commission in obedience to said subpoena, provided, however, that no person so testifying shall be exempt from prosecution and punishment for perjury committed in so testifying. The sheriff or constable executing any process issued under the provisions of this act shall receive such compensation therefor as may be allowed by the commission, not to exceed the fees as the same shall now or hereafter be prescribed by law for similar services.

Rates of charges, establishment of.

§ 16. The said board of railroad commissioners shall have the power, and it shall be their duty, to establish rates of charges for transportation by transportation companies subject to the provisions of this act, and the order for the said rates so made shall take effect on the twentieth day after service of the same upon the transportation company affected thereby, and in case such company be a corporation such service shall be sufficient if made upon the president, vice-president, secretary or managing agent thereof, and in case such company be a partnership, upon any member of the firm; to examine the books, records and papers of all such transportation companies, and for this purpose they shall have power to issue subpoenas and all other necessary processes; to hear and determine complaints against said transportation companies; to send for persons and papers; to administer oaths, take testimony and punish for contempt of their orders and processes in the same manner and to the same extent as courts of record; and to enforce their decisions, and correct abuses through the medium of the courts.

Through routes and joint rates.

§ 17. The commission may, after hearing on a complaint and upon such reasonable notice as it may fix to the company or companies complained of, establish through routes and joint rates as the maximum to be charged, and prescribe the division of such rates as hereinafter

provided, and the terms and conditions under which such through routes shall be operated when that may be necessary to give effect to any provision of this act and the company or companies complained of have refused or neglected to establish voluntarily such through routes and joint rates; provided, no reasonable or satisfactory through route exists, and this provision shall apply when one of the connecting companies is a water line. Should the companies fail to agree among themselves upon the apportionment or division of such joint rates, the commission may, after hearing, upon such reasonable notice to said companies as it may fix, make a supplemental order prescribing the just and reasonable proportion of such joint rate to be received by each company party thereto.

Schedules to be filed and posted. Changes in rates. Joint tariffs. Form of schedules.

§ 18. Every transportation company, subject to the provisions of this act, shall file with the commission, within a time fixed by the commission, and print and keep open to public inspection, schedules showing all the rates, fares and charges for transportation between different points on its own route and between points on its own route and points on the route of any other transportation company subject to the provisions of this act, when a through route and joint rate have been established. These schedules shall plainly state the places between which property and passenger will be carried, and shall also state separately all terminal charges, storage charges, icing charges, and all other charges which the commission may require, all privileges or facilities granted or allowed, and any rules or regulations which in anywise change, affect, or determine any part or the aggregate of such aforesaid rates, fares and charges, or the value of the service rendered to the passenger, shipper or consignee. Such schedules shall be plainly printed in large type, and copies for the use of the public shall be kept on file in every depot, station and office of such transportation companies where passengers or freight, respectively, are received for transportation, in such form that they shall be accessible to the public and can be conveniently inspected. The provisions of this section shall apply to all traffic, transportation and facilities defined in this act.

No change shall be made in the rates, fares and charges, or joint rates, fares and charges which have been made, filed and published by any transportation company subject to the provisions of this act, except after thirty days' notice to the commission, and to the public, published as aforesaid, which shall plainly state the changes proposed to be made in the schedule then in force and the time when the changed rates, fare or charges will go into effect; and the proposed changes shall be shown by printing new schedules, or shall be plainly indicated upon the schedules in force at the time, and kept open to public inspection; provided, that the commission may, in its discretion and for good cause shown, allow changes upon less than the notice herein specified, or modify the requirements of this section in respect to publishing, posting and filing of tariffs, either in particular instances or by

a general order applicable to special or peculiar circumstances or conditions.

The names of the several transportation companies which are parties to any joint tariff shall be specified therein, and each of the parties thereto, other than the one filing the same, shall file with the commission such evidence of concurrence therein or acceptance thereof as may be required or approved by the commission, and where such evidence of concurrence or acceptance is filed, it shall not be necessary for the transportation companies filing the same to also file copies of the tariffs in which they are named as parties.

The commission may determine and prescribe the form in which the schedules required by this section to be kept open to public inspection shall be prepared and arranged, and may change the form from time to time as shall be found expedient.

No transportation company subject to the provisions of this act, unless otherwise provided by this act, shall engage or participate in the transportation of passengers or property, as defined by this act, unless the rates, fares and charges upon which the same are transported by said transportation company have been filed and published in accordance with the provisions of this act; nor shall any transportation company charge or demand or collect or receive a greater or less compensation for such transportation of passengers or property, or for any service in connection therewith, between the points named in such tariffs, than the rates, fares and charges which are specified in the tariffs filed and in effect at the time.

Change of rates, notice to company.

§ 19. The said commission, before establishing, changing, amending, or abolishing any rule, regulation, or rate of charge for transportation, shall give the transportation company to be affected thereby ten days' notice of the time and place for the taking of action by the commission in respect to the same, and said company shall be entitled to be heard at such time and place and to process for the attendance of its witnesses, to the end that such action may be taken by the commission as shall be reasonable and just in the premises.

Petition for investigation.

§ 20. Any person, firm, corporation, or association, or any mercantile, agricultural or manufacturing society, or any body politic, or municipal organization, complaining of anything done or omitted to be done by any transportation company subject to the provisions of this act, in contravention of the provisions thereof or of the constitution of this state may apply to said commission by petition, which shall set forth the facts; whereupon, if there shall appear to the commission to be any reasonable grounds for investigating such complaint, it shall cause a copy of the same to be served on the transportation company concerned, and call upon said company to answer the same at a time and place specified in said call by said commission. The commission shall investigate the matters complained of under such reasonable rules and modes

of procedure as it shall deem proper. No complaint shall at any time be dismissed because of the absence of direct damage to the plaintiff.

Reports of investigations. Complaints. Award of damages to complainant.

§ 21. Whenever an investigation shall be made by said commission, it shall be its duty to make a report in writing in respect thereto, which shall state the conclusions of the commission, together with its decision, order or requirement in the premises; and in case damages are awarded, such report shall include the findings of fact in which the award is made. All reports of investigations made by the commission shall be entered of record, and a copy thereof shall be furnished to the party who may have complained, and to any transportation company that may have been complained of. The commission may provide for the publication of its reports and decisions in such form and manner as may be best adapted for public use and information, and such authorized publications shall be competent evidence of the reports and decisions of the commission therein contained in all courts of this state, without any further proof or authentication thereof. The expense of such publication shall be ordered paid by the controller on the certificate of the chairman of said commission that the same has been incurred, and shall be payable out of any moneys in the general fund not otherwise appropriated.

If, in any such investigation, the commission shall determine that any party complainant is entitled to an award of damages under the provisions of this act, for a violation thereof, the commission shall make an order directing the transportation company to pay to the complainant the sum to which he is entitled, on or before a day named. If such transportation company does not comply with an order for the payment of money within the time limited in such order, the complainant, or any person for whose benefit such order was made, may file, in the superior court of the state of California, for the county in which complainant resides, or in which is located the principal operating office of the transportation company in said state, a petition setting forth, briefly, the causes for which he claims damages, and the order of the commission in the premises. Such suit shall proceed in all respects like other civil suits for damages in said superior court, except that on the trial of said suit the findings and order of the commission shall be prima facie evidence of the facts therein stated, and either party thereto shall have the right of appeal to the supreme court as in other cases applicable thereto.

All complaints for the recovery of damages shall be filed with the commission within one year from the time the cause of action accrues and not after, and a petition for the enforcement of an order of the commission for the payment of money shall be filed in the superior court within six months from the date of the order and not after.

In such suits all parties in whose favor the commission may have made an award for damages by a single order may be joined as plaintiffs, and all of the transportation companies, parties to such order, may be

joined as defendants, and the venue of all such suits shall be in the county where any of such transportation companies shall have its principal operating office in the state of California.

In the case of such joint suit, the recovery, if any, may be by judgment in favor of any one of such plaintiffs, against the defendant found to be liable to such plaintiff.

Every order of the commission shall be forthwith served by mailing the same to any one of the principal officers, or agents, or members of the transportation company at its principal operating office in this state, and the registry mail receipt shall be prima facie evidence of the receipt of such order by the transportation company in due course of mail.

The commission shall be authorized to suspend or modify its orders upon such notice and in such manner as it shall deem proper.

Authority to prescribe just rates.

§ 22. The commission is authorized and it shall be its duty whenever, after full hearing upon a complaint made as provided in section 20 of this act, or upon complaint of any transportation company subject to the provisions of this act, it shall be of the opinion that any of the rates or charges demanded, charged or collected by any transportation company or companies subject to the provisions of this act, for transportation services, or that any regulations or practices of said companies affecting such rates or charges, whether in respect to the complainants mentioned in said section 20, or in respect to any such transportation company itself, are unjust or unreasonable, or unjustly discriminatory, or unduly preferential or prejudicial, or otherwise in violation of, or contrary to, any of the provisions of this act, to determine and prescribe what will be the just and reasonable rate or rates, charge or charges, to be thereafter observed in such case as the maximum to be charged; and what regulation or practice in respect to such transportation is just, fair and reasonable to be thereafter followed; and to make an order that the transportation company shall cease and desist from such violation of the act, to the extent to which the commission find the same to exist, and shall not thereafter publish, demand or collect any rate or charge for such transportation service in excess of the maximum rate or charge so prescribed, and shall conform to the regulation or practice so prescribed, and to make, in proper cases, an order in respect to such rate or charges, or such regulations or practices, where the transportation company is complainant, and shall prescribe the just and reasonable rate or rates, charge or charges, to be thereafter observed by such transportation company as the maximum to be charged, and what regulation or practice in respect to such transportation services is just, fair and reasonable to be thereafter followed by the said transportation company.

All orders of the commission, except orders for the payment of money, shall take effect on the twentieth day after service, as provided in section 16 hereof, and shall continue in force for such time not exceeding one year, as shall be prescribed in the order of the commission, unless

the same shall be suspended or modified or set aside by the commission, or be suspended or set aside by a court of competent jurisdiction.

The superior court of the state of California shall be such court of competent jurisdiction, and the venue of suits brought in any superior court of said state against the commission, to enjoin, set aside, annul or suspend any order or requirement of the commission, shall be in the county where the transportation company against which such order or requirement may have been made has its principal operating office in the state of California, and may be brought at any time after such order is promulgated. If said order or requirement has been made against two or more transportation companies, such venue shall be in the county where any one of said transportation companies has its principal operating office in the state of California, and jurisdiction to hear and determine such suits is hereby vested in said superior court. An appeal to the supreme court of the state of California may be taken from any interlocutory order or decree granting or continuing an injunction in any suit, but such appeal must be taken within thirty days from the entry of such order or decree, and it shall take precedence in the appellate court over all other causes except causes of like character and criminal causes.

Failure to obey order of commission.

§ 23. If any transportation company fails or neglects to obey any order of the commission, other than for the payment of money, while the same is in effect, any party injured thereby, or the commission in its own name, may apply to the superior court of the state of California for the county where such transportation company has its principal operating office in the state of California for an enforcement of such order. Said application shall be by petition, which shall state the substance of the order and the respect in which the transportation company has failed of obedience, and shall be served upon the company in such manner as the court shall direct, and the court shall prosecute such inquiries and make such investigations through such means as it shall deem needful in the ascertainment of the facts at issue or which may arise upon the hearing of such petition. If, upon such hearing as the court may determine to be necessary, it appears that the order was regularly made and duly served, and that the transportation company is in disobedience of the same, the court shall enforce obedience to such order by a writ of injunction, or other proper process, mandatory or otherwise, to restrain such company, its officers, agent or representatives from further disobedience of such order, or to enjoin upon it, or them, obedience to the same; and in the enforcement of such process the court shall have those powers ordinarily exercised by it in compelling obedience to its writs of injunction and mandamus. From any action upon such petition an appeal shall lie by either party to the supreme court of the state of California, and in such court the cause shall have priority in hearing and determination over all other causes except criminal causes, but such appeal shall not vacate or suspend the order appealed from.

Application for rehearing. Proceedings on rehearing.

§ 24. After a decision, order or requirement has been made by the commission in any proceeding, any party thereto may at any time make application for rehearing of the same, or any matter determined therein, and the commission may, in its discretion, grant such a rehearing if sufficient reason therefor be made to appear. Applications for rehearing shall be governed by such reasonable rules as the commission may establish. No such application shall excuse any transportation company subject to the provisions of this act from complying with or from obeying any decision, order, or requirement of the commission, or operate in any manner to stay or postpone the enforcement thereof, without the special order of the commission.

In case a rehearing is granted, the proceedings thereon shall conform as nearly as may be to the proceedings in an original hearing, except as the commission may otherwise direct; and if, in its judgment, after such rehearing and the consideration of all facts including those arising since the former hearing, it shall appear that the original decision, order or requirement is in any respect unjust or unwarranted, the commission may reverse, change or modify the same accordingly. Any decision, order or requirement made after such rehearing, reversing, changing or modifying the original determination, shall be subject to the same provisions as an original order.

Commission may investigate on own motion.

§ 25. Whenever the commission shall believe that any rate or charge for transportation is unjust or unreasonable, or unjustly discriminatory or unduly preferential, or that any service in the matter of such transportation is inadequate or that anything has been done or omitted to be done by any common carrier subject to the provisions of this act in contravention to the provisions thereof or of the constitution and that investigation relating thereto should be made, it may, upon its own motion, investigate the same. Before making such investigation, it shall furnish the transportation company concerned a statement in writing setting forth the rate or charge or service to be investigated. Thereafter, on ten days' notice to such transportation company of the time and place of said investigation, the commission may proceed to investigate such rate or charge or service in the same manner and make like orders in respect thereto as if such investigation had been made on complaint.

Who may intervene.

§ 26. Any party authorized by this act to be complainant in any investigation before the commission, or subject to be defendant therein, may, in the discretion of the commission, be permitted to intervene in any such investigation where said party has an interest in the matter under investigation in the success of either complainant or defendant, or an interest against both. In any such investigation before the commission, any party thereto, or the commission, may in the investigation cause the deposition of witnesses residing within or without the state

to be taken in the manner prescribed by law for like depositions in civil actions in the superior courts of this state.

Rules of procedure.

§ 27. The commission shall have the power to adopt rules to govern its proceedings, and to regulate the mode and manner of all investigations of transportation companies and other parties before it, in the establishment of rates, rules, regulations, or in the making of orders and in the doing of other acts required of it under this act.

Oaths, who may administer.

§ 28. The chairman and each of the commissioners, for the purposes of this act, shall have power to administer all oaths, certify to all official acts, and to compel the attendance of witnesses and the production of books, papers, and testimony.

Burden of proof.

§ 29. In all investigations under this act the burden of proof shall be upon the complainant.

Evidence.

§ 30. All evidence taken before the commission in the investigation of any breach of this act, when reduced to writing, may be used by any party thereto as evidence upon the trial of any cause or proceeding growing out of the same transaction against such transportation company, involving the same subject matter, and between the same parties, to the same extent as a deposition in a civil case. The commissioners are authorized to employ a phonographic reporter for the purpose of taking and transcribing such testimony whenever such commission shall deem it necessary, or whenever they shall be requested to do so by any party to the proceedings, and a certified copy under the hand and seal of said commission shall be sufficient proof of such testimony in any cause or proceeding in which the same shall be admissible as herein provided.

Charges must be reasonable.

§ 31. All charges made for any service rendered or to be rendered in the transportation of passengers or property, or in connection therewith, by transportation companies subject to the provisions of this act, shall be just and reasonable, and every unjust and unreasonable charge for such service or any part thereof is prohibited and declared to be unlawful.

Accidents, investigation of.

§ 31a. The railroad commission shall investigate the cause of all accidents on any railroad within the state which result in loss of life or injury to persons or property, and which in its judgment shall require investigation. Every common carrier and railroad corporation is hereby required to give immediate notice to the commission of every accident happening upon any line of railroad owned, operated, controlled or

Application for rehearing. Proceedings on rehearing.

§ 24. After a decision, order or requirement has been made by the commission in any proceeding, any party thereto may at any time make application for rehearing of the same, or any matter determined therein, and the commission may, in its discretion, grant such a rehearing if sufficient reason therefor be made to appear. Applications for rehearing shall be governed by such reasonable rules as the commission may establish. No such application shall excuse any transportation company subject to the provisions of this act from complying with or from obeying any decision, order, or requirement of the commission, or operate in any manner to stay or postpone the enforcement thereof, without the special order of the commission.

In case a rehearing is granted, the proceedings thereon shall conform as nearly as may be to the proceedings in an original hearing, except as the commission may otherwise direct; and if, in its judgment, after such rehearing and the consideration of all facts including those arising since the former hearing, it shall appear that the original decision, order or requirement is in any respect unjust or unwarranted, the commission may reverse, change or modify the same accordingly. Any decision, order or requirement made after such rehearing, reversing, changing or modifying the original determination, shall be subject to the same provisions as an original order.

Commission may investigate on own motion.

§ 25. Whenever the commission shall believe that any rate or charge for transportation is unjust or unreasonable, or unjustly discriminatory or unduly preferential, or that any service in the matter of such transportation is inadequate or that anything has been done or omitted to be done by any common carrier subject to the provisions of this act in contravention to the provisions thereof or of the constitution and that investigation relating thereto should be made, it may, upon its own motion, investigate the same. Before making such investigation, it shall furnish the transportation company concerned a statement in writing setting forth the rate or charge or service to be investigated. Thereafter, on ten days' notice to such transportation company of the time and place of said investigation, the commission may proceed to investigate such rate or charge or service in the same manner and make like orders in respect thereto as if such investigation had been made on complaint.

Who may intervene.

§ 26. Any party authorized by this act to be complainant in any investigation before the commission, or subject to be defendant therein, may, in the discretion of the commission, be permitted to intervene in any such investigation where said party has an interest in the matter under investigation in the success of either complainant or defendant, or an interest against both. In any such investigation before the commission, any party thereto, or the commission, may in the investigation cause the deposition of witnesses residing within or without the state

to be taken in the manner prescribed by law for like depositions in civil actions in the superior courts of this state.

Rules of procedure.

§ 27. The commission shall have the power to adopt rules to govern its proceedings, and to regulate the mode and manner of all investigations of transportation companies and other parties before it, in the establishment of rates, rules, regulations, or in the making of orders and in the doing of other acts required of it under this act.

Oaths, who may administer.

§ 28. The chairman and each of the commissioners, for the purposes of this act, shall have power to administer all oaths, certify to all official acts, and to compel the attendance of witnesses and the production of books, papers, and testimony.

Burden of proof.

§ 29. In all investigations under this act the burden of proof shall be upon the complainant.

Evidence.

§ 30. All evidence taken before the commission in the investigation of any breach of this act, when reduced to writing, may be used by any party thereto as evidence upon the trial of any cause or proceeding growing out of the same transaction against such transportation company, involving the same subject matter, and between the same parties, to the same extent as a deposition in a civil case. The commissioners are authorized to employ a phonographic reporter for the purpose of taking and transcribing such testimony whenever such commission shall deem it necessary, or whenever they shall be requested to do so by any party to the proceedings, and a certified copy under the hand and seal of said commission shall be sufficient proof of such testimony in any cause or proceeding in which the same shall be admissible as herein provided.

Charges must be reasonable.

§ 31. All charges made for any service rendered or to be rendered in the transportation of passengers or property, or in connection therewith, by transportation companies subject to the provisions of this act, shall be just and reasonable, and every unjust and unreasonable charge for such service or any part thereof is prohibited and declared to be unlawful.

Accidents, investigation of.

§ 31a. The railroad commission shall investigate the cause of all accidents on any railroad within the state which result in loss of life or injury to persons or property, and which in its judgment shall require investigation. Every common carrier and railroad corporation is hereby required to give immediate notice to the commission of every accident happening upon any line of railroad owned, operated, controlled or

leased by it in such manner as the commission may direct. Such notice shall not be admitted as evidence or used for any purpose against such common carrier or railroad corporation giving such notice in any suit or action for damages growing out of any matter mentioned in said notice.

Switch connections.

§ 31b. A railroad corporation, upon the application of any shipper tendering traffic for transportation, shall construct, maintain and operate upon reasonable terms a switch connection or connections with a lateral line of railroad or private sidetrack owned, operated or controlled by such shipper, and shall, upon the application of any shipper, provide upon its own property a sidetrack and switch connection with its line of railroad, whenever such sidetrack and switch connection is reasonably practicable, can be put in with safety, and the business therefor is sufficient to justify the same.

If any railroad corporation shall fail to install or operate any such switch connection with a lateral line of railroad or any such sidetrack and switch connection as aforesaid, after written application therefor has been made to it, any corporation or person interested may present the facts to the railroad commission by written petition, and the commission shall investigate the matter stated in such petition, and give such hearing thereon as it may deem necessary or proper. If the commission be of opinion that it is safe and practicable to have a connection, substantially as prayed for, established or maintained, and that the business to be done thereon justifies the construction and maintenance thereof, it shall make an order directing the construction and establishment thereof, specifying the reasonable compensation to be paid for the construction, establishment, and maintenance thereof, and may in like manner upon the application of the railroad corporation order the discontinuance of such switch connection.

Continuous carriage required.

§ 31c. No common carrier shall enter into or become a party to any combination, contract, agreement or understanding, written or oral, express or implied, to prevent by any arrangement or by change of arrangement of time schedule, by carriage in different cars or by any other means or device whatsoever the carriage of freight and property from being continuous from the place of shipment to the place of destination. No breakage of bulk, stoppage or interruption of carriage made by any common carrier shall prevent the carriage of freight and property from being treated as one continuous carriage from the place of shipment to the place of destination. Nor shall any such breakage of bulk, stoppage or interruption of carriage be made or permitted by any common carrier except it be done in good faith for a necessary purpose without intention to avoid or unnecessarily interrupt or delay the continuous carriage of such freight or property or to evade any of the provisions of law, of this act or of any order of the railroad commission.

Short haul charges.

§ 31d. No common carrier, subject to the provisions of this act, shall charge or receive any greater compensation in the aggregate for the transportation of passengers or of a like kind of property, under substantially similar circumstances and conditions, for a shorter than for a longer distance over the same line in the same direction, the shorter being included within the longer distance; but this shall not be construed as authorizing any such common carriers to charge and receive as great a compensation for a shorter as for a longer distance haul.

"Extortion" defined.

§ 32. If any transportation company, or any officer or agent of any transportation company subject to this act, shall hereafter willfully charge, collect, demand or receive from any person, firm or corporation a greater rate, charge or compensation than the rate, charge or compensation published as in this act provided, such transportation company or such officer or agent thereof, as the case may be, shall be deemed guilty of extortion, which is hereby declared a misdemeanor, and on conviction thereof shall be fined in a sum not less than five hundred dollars and not more than five thousand dollars.

Rebates.

§ 33. If any transportation company subject hereto shall, directly or indirectly, by any special rate, rebate, drawback, or other practice, method or device, charge, demand, collect or receive from any person, company, firm or corporation, a greater or less compensation for any service rendered, or to be rendered by it in the transportation of passengers or freight, than it charges, demands, collects or receives from any other person, company, firm or corporation for doing a like and contemporaneous service in the transportation of a like kind of traffic, under substantially similar circumstances and conditions, such transportation company shall be deemed guilty of unjust discrimination, which is hereby prohibited.

Undue preference.

§ 34. It shall also be unjust discrimination for any such transportation company to make or give any undue or unreasonable preference or advantage to any particular person, company, firm, corporation, or locality, or to any particular description of traffic, in any respect whatsoever, or to subject any particular description of traffic, in any respect whatsoever, or to subject any particular person, company, firm, corporation or locality, or any particular description of traffic to any undue or unreasonable prejudice or disadvantage in any respect whatsoever.

Penal clause.

§ 34 1/2. Any transportation company guilty of unjust discrimination, as defined in this act, shall be guilty of a misdemeanor, and on conviction thereof shall be fined in a sum not less than five hundred dollars, and not more than five thousand dollars. Every officer and agent of any such company who shall violate, or who procures, aids or abets any

violation by such company of any of the provisions of sections 33 and 34 of this act shall be guilty of a misdemeanor.

Interchange of traffic.

§ 35. All transportation companies subject to the provisions of this act shall, according to their respective powers, afford all reasonable, proper and equal facilities for the interchange of traffic between their respective lines, and for the receiving, forwarding, and delivery of passengers and property to and from their several lines and those connected therewith, and shall not discriminate in their rates and charges between such connecting lines; but this shall not be construed as requiring any such transportation company to give the use of its tracks or terminal facilities to another transportation company engaged in like business.

False billing.

§ 36. Any officer or agent of any transportation company subject to this act who by means of false billing, false classification, false weight, or by any other device, shall willfully suffer or permit any person or persons to obtain transportation for property at less than the published rates then in force, or who, by means of false billing, false classification, false weighing, or by any device whatever shall willfully charge any person, firm or corporation more for the transportation of property than the published rates, shall be guilty of a misdemeanor, and on conviction thereof shall be fined in a sum of not less than five hundred dollars and not more than five thousand dollars.

Company responsible for act of agent. Soliciting favors of company by shipper.

§ 37. The act, omission or failure of any officer, agent or other person acting for or employed by any transportation company subject to the provisions of this act, or shipper, acting within the scope of his employment, shall, in every case, be also deemed to be the act, omission or failure of such transportation company or shipper, as well as that of the person. The willful failure upon the part of any transportation company subject to the provisions of this act to file and publish the tariff or rates and charges as required by this act, shall be a misdemeanor, and upon conviction thereof the transportation company offending shall be subject to a fine of not less than five hundred dollars and not more than five thousand dollars.

It shall be unlawful for any person, persons or corporation willfully to offer, grant or give, or to solicit, accept or receive any advantage or discrimination in respect to the transportation of any property in the intra-state commerce of this state, whereby any such property shall, by any device whatever, be transported at a less rate than that named in the tariffs published and filed by such transportation company as required by this act, or whereby any other advantage is given or discrimination practiced. Every person or corporation who shall so offer, grant or give, or shall so solicit, accept or receive any such advantage

or discrimination shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine of not less than five hundred dollars and not more than five thousand dollars; except that where the advantage given or discrimination practiced shall be in the transportation at a less rate, as aforesaid, than the published tariff rate, the penalty on conviction shall be a fine of not less than one thousand dollars and not more than five thousand dollars.

Every offense created by this act shall be prosecuted in a court having jurisdiction of offenses within the city, city and county, or county in which such offense was committed; and whenever the offense is begun in one jurisdiction and completed in another, it may be proceeded against in either.

Liability for damages.

§ 38. In case any transportation company subject to this act, or any person or corporation within the provisions hereof, shall do, cause to be done, or permit to be done, except unintentionally or innocently through a mistake of fact, any matter, act or thing in this act prohibited or declared to be unlawful, or shall similarly omit to do any act, matter or thing herein required by this act to be done, such transportation company, person, or corporation shall be liable to the penalties hereinbefore provided for, and shall, in addition, be liable to the person or persons, firm or corporation injured by such act or omission for the damages proximately resulting therefrom; and in addition to such damages, such transportation company, in all cases where the same shall be guilty of extortion or unjust discrimination as defined in this act, shall pay to such person, firm or corporation so injured a penalty of not less than five hundred dollars and not more than five thousand dollars.

Free passes.

§ 39. No railroad or other transportation company shall grant free passes, or passess, or tickets, at a discount, to any person holding any office of honor, trust, or profit in this state, and every transportation company issuing free passes or tickets at a discount in violation of the provisions of this section shall be deemed guilty of a misdemeanor, and for each offense shall be punished by a fine of not less than five hundred dollars nor more than five thousand dollars.

Published rate to be deemed just.

§ 40. In all actions between private parties and transportation companies subject to the provisions of this act, in respect to any rate, charge, order, rule or regulation published as required by this act, the published rate, charge, order, rule or regulation shall be deemed to be just and reasonable, and shall not be open to controversy except in and by way of such proceedings for that purpose before the commission and the courts as are provided for in this act.

Investigations by interstate commerce commission.

§ 40a. The said commission is hereby authorized and directed when public interests require, to file petitions for investigations, or com-

plaint or complaints, with the interstate commerce commission, and to file such suit or suits, in tribunals or courts of competent jurisdiction as are permitted under the terms of what is known as the interstate commerce act, complaining of anything done, or omitted to be done by common carriers subject to the provisions of the interstate commerce act. Said board is also hereby authorized and instructed to file petitions for investigations, or complaint, or complaints, and to commence such suit or suits, in tribunals, or courts of competent jurisdiction, complaining of the order, or orders, of any transcontinental railroad company, or other common carriers, either railroad or steamship, raising freight rates, or entering into contracts or combinations to raise, or maintain rates, or to take any action that will prevent competition, to and from, or to or from, California points to points in the United States outside of California. The attorney general is hereby directed to represent said board and the people of the state of California, in any proceeding commenced under the provisions of this section.

Co-operation with interstate commerce commission.

§ 40c. The said commission is hereby empowered and directed to co-operate with the interstate commerce commission in the investigation of discriminations in charges of facilities for transportation of passengers or freight made by any railroad or other transportation company, between places or persons, or in the facilities for the transportation of the same classes of passengers or freight within this state, or coming from or going to any other state, and to that end and for either of said purposes shall arrange for joint meetings with the interstate commerce commission or any section thereof in the various commercial and industrial centers of this state.

Sessions of state board, to be held where.

§ 40d. The state board of railroad commissioners shall meet and hold a session of such board for the purpose of investigating any discriminations, or any complaint of any citizen of this state, against any railroad or other transportation company at least once every six months, commencing May 1, 1909, at each of the following cities: San Francisco, Los Angeles, San Diego, Stockton, Sacramento, Oakland, Fresno, San Jose, Santa Barbara, Redding, Bakersfield, Marysville, San Bernardino and Eureka, and at such other cities or towns in counties other than those in which the cities hereinabove named are respectively situated, when a petition for a meeting of such board is filed with the secretary thereof by ten shippers. Notice of such meetings shall be given by said board by advertising same for a period of one week in one or more daily newspapers published in the city and county of San Francisco, and for a like period in a daily newspaper in the county where any meeting is to be held if there be one published therein, if not, then for a period of two weeks in a weekly newspaper published therein. Such notice shall contain a request for the public interested in transportation matters to appear and present any complaints or file petitions for better facilities or for reduction of rates. At such meet-

ings testimony may be taken in support of such complaint or petition. If demanded by any railroad or other transportation company, affected by such complaint or petition, the board may hear such testimony as such company may present; whereupon such board shall take such proceedings on such complaint or petition as may be authorized by the constitution and laws of this state. The testimony taken at all hearings of such board authorized by the provisions of this act shall be reduced to writing, and a copy of the same shall be reported to the legislature at the beginning of each regular session thereof.

Construction of certain words.

§ 41. The words "commission," "commissioners" and "railroad commission," as used in this act, shall be construed as meaning the board of railroad commissioners of the state of California, and the word "commissioner" as used in this act shall be construed as meaning any one of the members of the board of railroad commissioners of the state of California.

To what carriers applies.

§ 42. This act shall be construed and held to apply only to the transportation of property and passengers within the state of California.

Repeal of certain acts.

§ 43. An act entitled "An act to create the office of commissioner of transportation, and to define its powers and duties; to fix the maximum charges for transporting passengers and freights on certain railroads, and to prevent extortion and unjust discrimination thereon," approved April 1, 1878, and also an act entitled "An act to organize and define the powers of the board of railroad commissioners," approved April 15, 1880, and all acts or parts of acts inconsistent with the provisions of this act, are hereby repealed.

§ 44. This act shall take effect immediately.

Former act concerning powers of railroad commissioners: See Stats. 1880,

p. 45. Repealed 1909, 499: See post, Act 2935.

Citations. Cal. 79/164; 105/320; 132/678, 687.

ACT 2922.

To provide for the construction of a railroad from Ione to Sutter Creek or Jackson. [Stats. 1877-78, p. 841.]

ACT 2923.

Granting right of way and station grounds to the Southern California Railway Company over a portion of the asylum grounds in San Bernardino County. [Stats. 1893, p. 121.]

ACT 2924.

Relating to the operation of railroads. [Stats. 1893, p. 208.]

Citations. Cal. 121/658.

Codified by § 465a of Civil Code.

This act authorized railroads using steam to use electricity or steam, or both, provided that in incorporated cities of more than five thousand inhabitants authority must be obtained.

ACT 1925.

To compel the operation of railroads. [Stats. 1880, p. 43.]

Ordified by § 468 of Civil Code.

Citations. App. 8/688.

ACT 1926.

To provide for the management and operation of railroads above certain elevations. [Stats. 1897, p. 5.]

Ordified by § 468 of Civil Code.

ACT 1927.

To enable railroad companies to complete their roads. [Stats. 1877-78, p. 944.]

This act appears in full in Civil Code, Appendix, p. 829.

ACT 1928.

To ratify ordinances passed by the governing bodies of municipal corporations, giving permission to propel cars by electricity. [Stats. 1891, p. 12.]

This act appears in full in Civil Code, Appendix, p. 829.

ACT 1929.

Rates of fare on street railroads in cities of more than one hundred thousand inhabitants. [Stats. 1877-78, p. 18.]

This act appears in full in Civil Code, Appendix, p. 880.

ACT 1930.

Requiring street railroad corporations to allow United States mail carriers to ride free of charge. [Stats. 1893, p. 44.]

This act appears in full in Civil Code, Appendix, p. 832.

ACT 1931.

An act to authorize cities and towns to grant franchises for the construction and maintenance of railroads beyond the limits of such cities or towns leading to public parks owned thereby.

[Became a law, under constitutional provision, without governor's approval, March 1, 1897. Stats. 1897, p. 46.]

"See 1901, p. 267; 1907, p. 780; in both of which references this act is incorrectly referred to as chapter forty instead of chapter fifty."—Code Commissioners' Note.

§ 1. It shall be lawful for the council, trustees, or other governing body of any city or town owning public parks situated outside of said city or town, to grant franchises for the building and operation of rail-

roads from any point in, or at the exterior boundary of such city or town, to, in, or through such park, in the same manner and to the same extent as it now has power to grant the same for street railroads within the limits of such city or town; provided, that in addition to all other conditions, it shall be made a condition of such franchise that the fare of passengers on such road or roads shall never exceed five cents for a single trip.

§ 2. All railroads, except as otherwise provided in this act, authorized by this act to be so chartered shall be governed by the provisions of Part IV, Title IV, of the Civil Code of California, concerning street railroads and corporations, so far as the same shall be applicable thereto, and of all acts amendatory thereof. Also by the provisions of "An act providing for the sale of railroad and other franchises in municipalities and relative to granting of franchises," approved March twenty-third, eighteen hundred and ninety-three.

§ 3. This act shall take effect immediately.

ACT 2932.

To promote the safety of employees and passengers upon street railroads, by compelling equipment of cars and dummies with fenders and brakes, and to prescribe penalties. [Approved March 22, 1899. Stats. 1899, p. 183.]

Codified by § 869a of Penal Code, 1905: See note to § 869a, Penal Code.

ACT 2933.

An act requiring persons, corporations, receivers or trustees operating lines of railway to furnish cars for shipment of freight upon written application from shippers of freight and providing a penalty and damages to be paid by such persons, corporations, receivers or trustees to shippers for failure to do so and providing a penalty and damages to be paid to persons, corporations, receivers or trustees operating such railway lines by the applicant or shipper for failure to load or unload cars so furnished.

[Approved April 20, 1909. Stats. 1909, p. 1007.]

Duty of railroads to supply cars to shippers. Time in which to furnish cars.

§ 1. When the owner, or manager or shipper of any freight of any kind shall make application in writing to any superintendent, agent or other person in charge of transportation of any railway company or person, corporation, receiver or trustee operating any line of railway, at the point where cars are desired upon which to ship any freight, it shall be the duty of such railway company, corporation, receiver, trustee or other person in charge thereof, to supply the number of cars so required at the point indicated in the application within the time hereinafter specified after receipt of such application, and such railway company, person, corporation, trustee or receiver shall supply such cars to the persons so

applying therefor in the order in which such applications are made without giving any preference to any person; provided, if the application be for ten cars or less, the same shall be furnished in five days; provided, if the application be for ten cars and less than fifty cars the same shall be furnished in ten days; and provided further, that if the application be for fifty cars or more, such railway company, person, corporation, receiver or trustees shall have fifteen full days in which to supply the cars, if the application be for cars for the transportation of perishable freight the number of cars applied for shall be furnished within forty-eight hours; provided, that the point to which said freight is to be shipped is on the line of the railway company to which such application for cars is made or on the line of a railroad with which the railway company to which such application is made has connections and to which point it ordinarily receives freight for shipment; and provided further, that railway companies to which such application may be made shall not be obligated under the terms hereof to furnish cars of any class required for the transportation of the class of commodity to be shipped and for which application is made, unless it owns or usually operates such class of cars. All cars supplied in compliance with the provisions of this section shall be suitable for the purpose for which they are ordered. The time herein stated for the delivery of cars mentioned in any such application shall begin to run from the hour of 7 o'clock A. M. of the next day following the day of the receipt of any such application by the railway company, corporation, receiver, trustee or other person in charge to whom it is given.

Application shall state what.

§ 2. Said application for cars shall state the number of cars desired, the kind of freight to be shipped, the point of destination, the time and place at which they are desired; provided, that the place designated where the cars are to be furnished shall be at some station or switch on the railroad of the person, corporation, receiver or trustee to whom or to whose agent such application is made.

Penalty for failure to furnish.

§ 3. When cars are applied for under the provisions of this act, if they are not furnished as herein provided, the railway company, person, corporation, receiver or trustee so failing to furnish them shall be liable and immediately indebted to the party or parties so applying for said car or cars in the sum of five dollars per day for each car failed to be so furnished, to be recovered in any court of competent jurisdiction, and in addition all actual damages that such applicant may sustain by the failure to furnish said car or cars.

Deposit of freight charges. Failure of applicant to load cars; penalty for.

§ 4. Such applicant shall, at the time of applying for such car or cars, deposit with the agent of such company or with such person, corporation, receiver or trustee one-fourth of the amount of the freight charge for the use of such car or cars, if such agent, or such person, cor-

poration, receiver or trustee shall require such deposit; and such applicant shall within forty-eight hours after such car or cars have been delivered and placed as heretofore provided fully load the same; and upon failure to do so, he shall be liable and immediately indebted and pay to such company, person, corporation, receiver or trustee the sum of six dollars per day for each car not used; provided, that where applications are made on several days, all of which are filled upon the same day, the applicant shall have forty-eight hours to load the car or cars furnished on the first application, and the next forty-eight hours to load the car or cars furnished on the next application, and so on; and the penalty herein prescribed shall not accrue as to any car or lot of cars applied for on any one day, until the period within which they may be loaded has expired, and if the said applicant shall not use such cars so ordered by him, he shall forfeit and pay to the said railroad company in addition to the penalty herein prescribed, the actual damages that such company may sustain by the failure of the applicant to use said cars. Every such company, person, corporation, receiver or trustee shall have a lien upon any deposit made in accordance with this section for any damages or penalties accruing to it by failure to load any car or cars delivered and placed as in this act provided.

Cars must be moved when loaded. Time for unloading cars. Demurrage.

§ 5. The time within which said cars are to be loaded shall begin to run from the hour of 7 o'clock A. M. of the day next following the day the same are furnished at the place required and at the time specified in the application therefor. If the said applicant shall not use such cars so ordered by him, he shall so notify the railroad furnishing the same, and he shall be liable for the penalty above set forth to the railway company, corporation, receiver, trustee or other person in charge furnishing the same for the period of one day after said notification. When cars have been furnished and loaded it shall be the duty of the railway company, corporation, receiver, trustee or other person in charge to promptly remove the same from the point where loaded and deliver the same to the connecting railroad or to the person or persons to whom they are consigned, within a reasonable time. All persons to whom cars are consigned shall unload the same within forty-eight (48) hours after delivery thereof to the said consignee at the usual and appropriate point of unloading; and upon failure to unload said car or cars within the time herein specified, after the delivery thereof as herein stated, the consignee thereof shall be liable and shall be held to be immediately indebted to the railway company, corporation, receiver, trustee or other person in charge, delivering said cars, in the sum of six dollars per day, or fraction of a day, for each car so left unloaded. The time for unloading such cars shall be computed in the manner hereinbefore prescribed for loading cars. Nothing in this act contained shall be construed to prevent any railway company, person, corporation, receiver or trustee, operating any line of railway from making and enforcing any and all necessary rules for demurrage to insure the loading and unloading of cars within twenty-four hours after delivery thereof to consignors or consignees at the usual

and appropriate point of loading or unloading; provided, the rate or charge for demurrage so made shall not exceed three dollars for the first day after said period of twenty-four hours for each car, and thereafter the rate or charge for demurrage shall be the sum of six dollars per day for each car as hereinabove in this section provided.

Claims for failure to furnish cars.

§ 6. Any claim which any person may have against any railway company, corporation, receiver, trustee or other person in charge, for failure to furnish cars or for damages sustained by reason thereof, shall be assignable in the same manner, and to the same extent, as any assignable claim or chose in action, and suit or action for the collection thereof may be brought against any railway company, corporation, receiver, trustee or other person in charge by any person having any such claim, or by the assignee thereof.

What evidence necessary in suits.

§ 7. It shall be necessary for the party or parties bringing suit against any railway company, person, corporation, receiver, or trustee under the provisions of this act, to show by evidence that he or they had on hand at the time any demand for cars was made the amount of oil, lumber, wheat or other grain, wool, hides, fruit or other freight, necessary to load the cars so ordered; provided no charge for failure of any railway company, corporation, receiver, trustee or other person in charge to furnish a car or cars as herein required shall be made or enforced, or damages therefor claimed, when such failure is caused by public calamity, strikes, washouts, acts of God, the public enemy, mobs, riots, wrecks, fires or accidents. The causes in this act enumerated, which afford an excuse on the part of a railroad for not furnishing the cars as required, shall likewise, and to the same extent, excuse the owner, manager or shipper or consignee of any freight from all liability hereunder for failure to load or unload cars as herein required.

Act applies to what shipments.

§ 8. This act shall apply only to shipments begun and terminating within the state of California.

ACT 1934.

An act making an appropriation to assist the state board of equalization in gathering data in the several counties for equalization purposes, and for the employment of expert accountants to verify reports of railroad companies made to said board. [Approved February 22, 1909. Stats. 1909, p. 39.]

This act appropriated \$25,000 for the purposes indicated.

TITLE 409.

RAMIE CULTURE.

ACT 1937.

To encourage the cultivation of ramie in the state of California, to provide a bounty for ramie fiber, and to make an appropriation there-

for; to appoint a state superintendent of ramie culture, and make an appropriation for his salary. [Approved March 31, 1891. Stats. 1891, p. 283.]

Unconstitutional: *Murray v. Colgan*, 94 Cal. 485.

TITLE 410.

RECLAMATION DISTRICTS.

ACT 2939.

An act to create a reclamation district to be called "American River Reclamation District Number 1," and providing for the control and management thereof. [Approved April 28, 1909. Stats. 1909, p. 1127.]

ACT 2940.

An act to create a reclamation district to be called "Reclamation District No. 800," and providing for the control and management thereof. [Approved March 14, 1907. Stats. 1907, p. 259.]

ACT 2941.

An act to create a reclamation district, to be called "Reclamation District Number Seventy," and providing for the control and management thereof. [Approved March 21, 1905. Stats. 1905, p. 717.]

ACT 2942.

Providing for funding of indebtedness of. [Stats. 1871-72, p. 835.]

Amended 1873-74, pp. 237, 585; 1875-76, p. 888.

Citations. Cal. 45/357, 358; 47/233.

ACT 2943.

San Joaquin County, Mormon Slough, authorizing inhabitants of to form a reclamation district. [Stats. 1871-72, p. 709.]

ACT 2944.

Sutter County, levee district No. 1, defining boundary and providing for the care of, etc. [Stats. 1873-74, p. 511.]

Amended 1877-78, p. 914; 1889, p. 855; 1901, p. 629; 1907, p. 47.

Citations. Cal. 56/225; 68/544.

ACT 2945.

Sutter County, levee district No. 2, funding of indebtedness of. [Stats. 1875-76, p. 155.]

ACT 2946.

Levee district No. 2, Sutter County, defining boundary and providing for government of. [Stats. 1875-76, p. 391.]

Amended and supplemented 1893, p. 199; 1895, p. 236.

See ante, Act 1917.

ACT 2947.

To empower the trustees of levee district No. 1, Sutter County, to issue bonds for the payment or funding of its indebtedness. [Stats. 1880, p. 30.]

ACT 2948.

To define the boundaries and provide for the government of levee district No. 6, Sutter County. [Stats. 1891, p. 237.]

Amended 1907, p. 58.

ACT 2949.

To provide for funding the indebtedness of levee district No. 6, Sutter County, and to provide for the payment of such funded debt. [Stats. 1891, p. 235.]

ACT 2950.

Conferring additional powers upon trustees of swamp land district No. 17, in San Joaquin County. [Stats. 1875-76, p. 781.]

ACT 2951.

Providing for the payment of interest on trustees' orders against certain swamp lands. [Stats. 1871-72, p. 802.]

This act related to swamp land districts Nos. 50 and 54.

ACT 2952.

Reclamation district No. 54, Sacramento County, ratifying. [Stats. 1877-78, p. 530.]

ACT 2953.

Sutter County, relating to swamp land district No. 70. [Stats. 1871-72, p. 719.]

This act provided that the warrant should bear interest.

ACT 2954.

Swamp land district No. 70, to reorganize. [Stats. 1877-78, p. 580.]

Amended 1891, p. 62. Repealed 1907, p. 16.

ACT 2955.

To legalize the acts of the supervisors of Yolo County in forming reclamation district No. 108. [Stats. 1871-72, p. 776.]

Citations. Cal. 52/188; 52/350; 97/54.

ACT 2956.

An act to provide for the presentation to and approval by the board of supervisors, registration, interest upon, time of payment and receipt in payment of assessment of warrants of Reclamation District No. 108, situated in Colusa and Yolo counties. [Approved April 16, 1909. Stats. 1909, p. 940.]

Former act on this subject: See Stats. 1871-72, p. 696, which was repealed in 1903, Stats. 1903, p. 53.

ACT 2957.

Contra Costa County, swamp land district No. 118, relative to. [Stats. 1873-74, p. 689.]

This act validated certain acts relating to.

ACT 2958.

Swamp land reclamation district No. 118, act relating to assessment in. [Stats. 1875-76, p. 140.]

Unconstitutional: *People v. Houston*, 54 Cal. 536.

ACT 2959.

Reclamation district No. 124, Colusa County. [Stats. 1873-74, p. 957.]

Citations. Cal. 68/516.

This act legalized this district.

ACT 2960.

Swamp land district No. 150, Yolo County, formation of. [Stats. 1873-74, p. 867.]

Citations. Cal. 98/52.

ACT 2961.

To create and organize reclamation district No. 205, Sacramento County. [Stats. 1877-78, p. 911.]

Repealed 1880, p. 25.

Citations. Cal. 117/123.

ACT 2962.

Swamp land district No. 221, San Joaquin County, legalizing. [Stats. 1877-78, p. 434.]

ACT 2963.

Reclamation district No. 252, Sacramento County, establishing. [Stats. 1877-78, p. 531.]

ACT 2964.

Creating reclamation district No. 254, Sacramento County. [Stats. 1877-78, p. 909.]

ACT 2965.

Swamp land district No. 307, Yolo County, legalizing proceedings in. [Stats. 1877-78, p. 250.]

ACT 2966.

Reclamation district No. 317, Sacramento County, creating. [Stats. 1877-78, p. 562.]

ACT 2967.

Sacramento County, swamp lands in, funds for. [Stats. 1871-72, p. 881.]

Repealed 1878-74, p. 274.

This act related to districts Nos. 50 and 54.

ACT 2968.

Sacramento County, delinquent reclamation assessments, collection of. [Stats. 1873-74, p. 885.]

ACT 2969.

San Joaquin County, reclamation districts in. [Stats. 1875-76, p. 281.]

ACT 2970.

To create and establish two new reclamation districts of this state, to be known, respectively, as Union Island Reclamation District No. 1, and Union Island Reclamation District No. 2, embracing within their respective territorial limits a portion of Union Island, in San Joaquin County; to define the boundaries of such districts, and provide for the organization and government thereof, and to dissolve all other reclamation districts in conflict therewith. [Approved February 23, 1903. Stats. 1903, p. 37.]

ACT 2971.

Yolo and Solano counties, supervisors, powers of. [Stats. 1873-74, p. 602.]

This act authorized the supervisors to approve petitions for the formation of reclamation districts.

ACT 2972.

To facilitate equalization of assessments in reclamation districts. [Stats. 1881, p. 68.]

ACT 2973.

To subject certain reclamation districts to the provisions of the Political Code. [Stats. 1885, p. 77.]

This made districts organized prior to January 1, 1873, subject to the provisions of the code.

Citations. Cal. 144/644, 646.

ACT 2974.

Providing for the dissolution and annulment of reclamation districts for nonuser of corporate powers. [Stats. 1899, p. 13.]

ACT 2975.

An act to provide for the issuing of bonds by reclamation districts, and the disposal thereof for reclamation and other purposes, and their payment by taxation upon the property situated in such reclamation districts.

[Approved March 27, 1895. Stats. 1895, p. 197.]

Amended 1909, p. 988.

§ 1. Whenever in any reclamation district in this state, now formed or which may hereafter be formed, any assessment has been levied and assessed upon the lands of said district according to the provisions of the Political Code, for the purpose of paying the cost of the reclamation thereof according to the plans thereof; and where in the judgment and opinion of the board of trustees of said district it would be difficult or oppressive for the land owners of said district to pay the same or any unpaid portion thereof in the ordinary way in which such assessments are paid; or where such assessment or unpaid portion thereof could only con-

veniently and practically be paid by them in such small installments and at such length of interval as would seriously delay the work of reclamation and the completion thereof; the board of trustees of any such district shall so declare by order entered upon the records of said board, and shall thereupon order a special election to be held at some place in said district to be designated by said board of trustees, at which said special election shall be submitted to the owners of land in said district the question whether or not the bonds of said district shall be issued in an amount necessary to construct said works of reclamation, and equal to the amount of said hereinbefore mentioned assessment, which said amount shall be entered by said board of trustees in its records and stated by them in the order for such special election. [Amendment approved April 15, 1909. Stats. 1909, p. 933.]

§ 2. Notice of such special election must be given by the board of trustees by posting notices thereof in at least three public places in the district, at least twenty days prior thereto, and also by publication for the same time in some newspaper published in each county in which any portion of said district may be situated, if there be a newspaper published in each of such counties, and if there is no newspaper so published, then by such publication in each county in which there is a newspaper published, and such notice must specify the time and place of holding such election, the amount of bonds proposed to be issued, and the names of three landholders of the district to act as a board of election.

§ 3. At such election each holder of lands in the district shall be entitled to vote in person or by proxy, and shall have the right to cast one vote for each dollar's worth of real estate owned by him in the district, the value thereof to be determined from the next preceding assessment-roll of the county where the same is situated; and the board of trustees of the district shall, prior to the election, procure from the assessor of each county where any portion of the district is situated, a list, certified by such assessor, containing a description of all the land of the district situated in such county, the name of the person to whom each tract is assessed, and the value thereof as appears from the assessment-roll of said county, which said list shall be furnished to and be used by the said board of election in determining the number of votes each voter is entitled to cast. No person shall vote by proxy at such election, unless authority to cast such vote shall be evidenced by an instrument in writing, duly acknowledged and certified as grants of real property, and filed with the board of election. The ballots cast at such election shall contain the words "Bonds—Yes," or the words "Bonds—No," and also the name of the person casting the ballot, with the number of votes cast by him; and a list of the ballots cast shall be made by the board of election, containing the name of the voter, and if the ballot be cast by proxy, the name of the person casting it, the number of votes cast, and whether the same be cast for or against the issuing of the bonds.

§ 4. If the persons, or any of them, appointed and specified in the notice of election as the board of election fail to attend at the time and place appointed for the election, the voters present at the time for opening the polls may appoint any landholder of the district then present to fill the place of any absent member thereof. Each member of such board of election must, before entering upon his duties as such, take an official oath as such member of the board of election, which said oath may be administered by any officer authorized to administer oaths, or by any landholder in the district. The polls shall be kept open for the reception of votes from 10 o'clock A. M. until 4 o'clock P. M. At the close of the polls the board of election shall at once proceed to canvass the votes, and declare the result and forward a certificate, showing the number of votes cast for and against the issuing of bonds, to the board of supervisors of the county where the district was formed, and deliver a duplicate thereof to the board of trustees of the district, and shall also deliver to the said board of trustees all ballots cast at such election, and all documents and papers used at such election.

§ 5. If a majority of the votes cast at such election are in favor of the issuance of bonds, the board of trustees of the district shall cause bonds in the amount stated in the order for election to be issued and placed in the custody of the treasurer of the county in which the district was formed. Said bonds shall be of the denomination of one hundred dollars each, shall be negotiable in form, signed by the president of the board of trustees of the district, and the chairman of the board of supervisors of said county, and attested by the clerk of said board of supervisors, and the seal of said board of supervisors, shall be numbered consecutively as issued, and bear date at the time of their issue, and shall express on their face that they were issued by authority of this act, stating its title and date of approval, and the date of the election at which their issuance was authorized. Said bonds shall bear interest at the rate of seven per cent per annum, payable semi-annually on the first day of January and the first day of July in each year, at the office of said county treasurer, upon the presentation of the proper coupons therefor. Coupons for each installment of interest shall be attached to said bonds, and shall be numbered, signed, and attested, in the same manner as the bond. The principal of said bonds shall be paid as follows, to wit: Ten per cent of the whole amount of bonds issued, according to their consecutive numbers, shall be paid in ten years from the date of their issue, at the office of said county treasurer, and ten per cent thereof each succeeding year thereafter, until all are paid. If any bond shall not be presented for payment when the same becomes due, it shall cease to draw interest; but if presented at such time, and not paid for want of funds, the said county treasurer shall so indorse it, and thereafter such bond shall draw interest until paid, at said rate of seven per cent per annum, payable semi-annually.

§ 6. The treasurer of said county shall place the bonds prepared pursuant to this act to the credit of said district, and may at any time sell

any of said bonds for the best price obtainable therefor, but in no event for less than the face value of said bond, and the accrued interest thereon. Any money derived from the sale of said bonds by said county treasurer shall be placed in the treasury to the credit of said district, and a proper record of such transaction be placed upon the books of said treasurer.

§ 7. The board of trustees of said district may draw orders upon the said county treasurer, payable in bonds or money in the proportion and to the amount therein named, to pay for labor or services performed for, or materials or property furnished to, said district, for the purpose of constructing the reclamation works thereof, and the expenses necessarily incident to maintaining the same, and the contingent expenses of said district, which said orders shall be approved by the board of supervisors of the county where such district was formed, and thereafter be paid by said treasurer in the manner therein provided for if such bonds or money then remaining in said treasury to the credit of said district be sufficient to pay the same.

§ 8. The principal of said bonds and the interest thereon shall be paid by revenue derived as follows: Thirty days before any sum or sums is due or payable on account of the principal or interest or both, of said bonds, the board of trustees of the district shall determine the total amount thereof, and shall immediately by entry on its minutes direct that such an installment of the assessment theretofore declared on the lands of said district and for which the bonds were issued, as may be necessary to pay the same, together with such other indebtedness of the district then due and payable as the board may see fit to include, shall be collected and paid into the county treasury to the credit of said district, in the manner and form now provided by law for the payment of installments of reclamation assessments. Should any default be made in the payment of any such installment hereinbefore provided for, the same may be collected as now provided by law, and all remedies or proceedings now provided by law for the collection of reclamation assessments, or for installments thereof, are hereby made applicable to and available for the collection of the installments herein provided for.

When such installments of said assessment have been paid in and collected in pursuance of the order herein provided for, the whole of said sums so paid, or such portion thereof as may be necessary for the payment of all interest then due or to become due within the next ensuing six months, or for the payment of any installment of the principal of said bonds then due or to become due within the ensuing six months shall be set apart by the county treasurer from other funds to the credit of the district and shall be used and paid out by him only for the payment of interest on such bonds, or installments of the principal thereof, or any part or portion of either or both, then due or to become due as aforesaid. [Amendment approved April 15, 1909. Stats. 1909, p. 934.]

§ 9. Whenever any such reclamation district is situated partly in different counties, any installment or installments of assessment as herein

provided for shall be paid as provided by the Political Code for the payment of other installments of reclamation assessments. All sums or taxes or installments thereof which shall be paid to the treasurer of any county other than the treasurer of the county wherein the district was formed, shall immediately be paid by said treasurer upon the order of the board of trustees of the district, to the treasurer of the county wherein the district was formed, who shall place the same to the credit of the district as hereinabove provided. Said board of trustees must issue said order to said treasurer of any county other than the county in which the district was formed, immediately upon the expiration of twenty days after the payment of said installment of taxes shall have been ordered. [Amendment approved April 15, 1909. Stats. 1909, p. 934.]

§ 10. No assessor, tax collector, treasurer, or clerk shall receive any fee for any service required to be performed by them under the provisions of this act. All expenses necessarily incurred in carrying out the provisions of this act shall be paid out of any money to the credit of the district for which the services are performed in the treasury of the county where the district was formed, upon the order of the board of trustees of said district, approved by the board of supervisors of said county.

§ 11. This act shall take effect and be in force from and after its passage.

In addition, the following acts may be referred to:

ACT 2976.

Providing for appeals from orders forming reclamation or swamp land districts, setting off lands from such districts, or consolidating districts. [Approved April 16, 1880, p. 119 (Ban. ed., 385).]

Superseded by the following act:

ACT 2977.

An act providing for appeals from orders of the board of supervisors forming or refusing to form reclamation or swamp land districts, setting off lands from such districts, or including lands in such districts, or consolidating swamp land or reclamation districts.

[Approved March 11, 1893. Stats. 1893, p. 174.]

§ 1. Any person having an interest affected by any order of the board of supervisors of any county, approving or refusing to approve any petition for the formation of a reclamation or swamp land reclamation district, or in any manner creating or consolidating such districts, or including in or excluding from such district any lands, may, within thirty days after said order is made, appeal therefrom to the superior court of the county.

§ 2. Such appeal shall be taken and prosecuted in the manner prescribed by law and the rules of said superior court relating to appeals

from inferior courts, and the matter shall be tried anew in said superior court. The judgment rendered in the superior court in such matter shall be final. Each superior court held in any county of the state in which there are any reclamation or swamp land reclamation districts shall make rules regulating appeals in the cases hereinbefore mentioned; and the clerk of the board of supervisors shall, upon a notice of appeal and undertaking on appeal being filed with him, transmit the same, and all papers and documents used on the hearing before said board, to the clerk of the superior court in and for said county, who shall thereupon file the same without receiving any fee therefor.

§ 3. This act shall take effect and be in force from and after its passage.

§ 4. All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

ACT 2978.

An act legalizing the formation and organization of reclamation district number seven hundred and thirty, in the county of Yolo, state of California. [Approved March 6, 1909. Stats. 1909, p. 145.]

See, also, act of 1909, p. 146, fixing, establishing and defining the exterior boundaries of this district.

ACT 2979.

An act legalizing the formation and organization of reclamation district number seven hundred and eighty-five, in the county of Yolo, state of California. [Approved April 14, 1909. Stats. 1909, p. 896.]

ACT 2980.

An act legalizing the formation and organization of reclamation district number seven hundred and eighty-seven, in the county of Yolo, state of California. [Approved April 14, 1909. Stats. 1909, p. 899.]

ACT 2981.

An act authorizing the payment of assessments levied in reclamation district No. 791 to be made to the county treasurer of the county of Sacramento. [Approved March 8, 1909. Stats. 1909, p. 231.]

See act, Stats. 1909, p. 810, authorizing this district to contract for and maintain joint levees or other joint works of reclamation with any person, firm, corporation, district or municipality. See, also, act of 1909, p. 297, authorizing this district to contract for the disposition of drainage and flood waters and for the sale thereof to any person, firm, or corporation for irrigation or any other lawful purpose.

ACT 2982.

An act providing for the government of consolidated swamp land, levee, or reclamation districts.

[Approved March 20, 1909. Stats. 1909, p. 576.]

§ 1. Whenever any swamp land, levee or reclamation districts are consolidated, the consolidated district shall be known by the name and

number of the district containing the larger or largest area of lands and thereafter the consolidated district shall be subject to, governed by, and administered in accordance with the law governing or applying to such district from which the name or number is taken.

§ 2. This act shall take effect immediately.

ACT 1983.

An act to provide for the recordation of contracts and subscription agreements to stock in water users' associations, organized in conformity with an act of Congress, approved June 17, 1902, and to regulate recorders' fees for filing, recording and indexing same.

[Approved March 20, 1907. Stats. 1907, p. 749.]

§ 1. All county recorders in this state are hereby authorized and directed to accept from any incorporated water users' association, organized under the laws of the state of California for the purpose of securing the benefits of an act of Congress approved June 17, 1902, known as the "Reclamation Act," books containing printed copies of agreements with the United States, or with such water users' association, in relation to the lands affected by the projects provided for by said act, and copies of blank forms of subscription agreements to the capital stock of such water users' associations, or the transfer thereof, or other documents necessary to be recorded by such associations and to use such form books or such form blanks for the purpose of recording the same; and recorders shall charge for filing, recording and indexing such documents, papers, writings or contracts the sum of twenty-five cents for each document.

§ 2. This act shall take effect immediately

TITLE 411.

RECORDERS.

ACT 1984.

To legalize acts of county recorders and county auditors. [Stats. 1863-64, p. 187.]

Recorders of particular counties: See particular title.

TITLE 412.

RECORDS.

ACT 1987.

To transfer the records, papers, and business of the courts existing on the thirty-first day of December, 1879, in this state, to the courts now existing therein. [Approved February 4, 1880. Stats. 1880, p. 2.]

Citations. Cal. 57/542; 87/83; 89/128.

This act appears in the Appendix to the Code of Civil Procedure, p. 865.

TITLE 413.
RED BLUFF.

ACT 2992.

Incorporating. [Stats. 1875-76, p. 637.]

Amended 1877-78, p. 116; 1891, p. 108. Repealed by incorporating, in 1895, under Municipal Corporation Act of 1888.

ACT 2993.

To authorize the county judge of Tehama County to distribute town lots held by him in trust for the citizens of Red Bluff, and to issue certificates of title to the inhabitants in accordance with their respective interests. [Stats. 1867-68, p. 107.]

Amended 1877-78, p. 602.

ACT 2994.

Preventing hogs from running at large in. [Stats. 1871-72, p. 529.]

See statute of 1897, p. 198, p. 9, and 1901, p. 603, § 9.

ACT 2995.

To prevent hogs from running at large in the towns of Red Bluff and Tehama, in Tehama County. [Stats. 1873-74, p. 776.]

Repealed 1877-78, p. 79.

TITLE 414.
REDDING.

ACT 3000.

Change of name of. [Stats. 1873-74, p. 82.]

Repealed 1880, p. 24.

This act changed the name from Redding to Reading.

TITLE 415.
RED MEN.

ACT 3005.

Concerning corporations for charitable and beneficial purposes. [Stats. 1869-70, p. 726.]

This act enabled any society of the Improved Order of Red Men, or any other society for charitable or beneficial purposes, to incorporate.

TITLE 416.
REDWOOD CITY.

ACT 3010.

Incorporating. [Stats. 1867-68, p. 411.]

Amended 1869-70, p. 364; 1871-72, pp. 712, 714. Superseded by incorporating in 1897 under the statute of 1883.

Citations. Cal. 68/518.

ACT 3011.

Trustees authorized to extend and open Stambaugh Street. [Stats. 1873-74, p. 466.]

ACT 3012.

Election of clerk of board of trustees and superintendent of streets. [Stats. 1875-76, p. 593.]

Repealed by incorporating city, in 1887, under Municipal Corporation Act of 1883.

RESTORATION OF RECORDS.

See ante, "Burnt or Destroyed Records or Documents."

TITLE 417.

REVENUE.

ACT 3017.

To provide revenue for the support of the government of the state. [Stats. 1861, p. 419.]

Amended 1862, pp. 171, 172, 242, 254, 266, 538, 558; 1863, pp. 30, 122, 166, 712, 721, 732, 754; 1868-64, pp. 45, 71, 92, 254, 499, 513; 1865-66, pp. 607, 660, 802; 1867-68, pp. 82, 674; 1869-70, p. 423; 1871-72, pp. 295, 399.

Citations. Cal. 43/653; 47/150, 618; 63/531; 70/505, 506, 507; 119/685. Probably entirely superseded by Title IX of Part III of the Political Code and County Government Acts.

See as to this statute Yolo Co. v. Colgan, 132 Cal. 365.

RIO VISTA.

See tit. "Braños del Rio," ante.

TITLE 418.

RIVERSIDE COUNTY.

ACT 3022.

To create the county of Riverside, classify it, define its boundaries, provide for its organization, and the appointment, election of officers, the location of county seat by election, and the adjustment and fulfillment of certain rights and obligations arising between such county and certain other counties. [Approved March 11, 1893. Stats. 1893, p. 158.]

Citations. Cal. 101/234; 108/222; 125/497; 134/518; 152/223.

ROADS AND HIGHWAYS.

See "Highways"; "Parks."

TITLE 419.

RODEOS.

ACT 3027.

To regulate rodeos. [Stats. 1851, p. 445.]

Amended 1852, p. 102; 1855, p. 163; 1858, p. 70; 1861, p. 180; 1865-66, p. 678; 1873-74, p. 793. Supplemented 1858, p. 155.

Continued in force by codes: Penal Code, § 23; Political Code, § 19.

ACT 3028.

Supplemental to act concerning rodeos. [Stats. 1858, p. 155.]

TITLE 420.**ROUGH AND READY.****ACT 3033.**

To change the name of the town of "Rough and Ready," in Scotts Valley, Siskiyou County, to Etna. [Stats. 1873-74, p. 346.]

TITLE 421.**SACRAMENTO CITY.****ACT 3037.**

Boundaries, establishing. [Stats. 1873-74, p. 191.]

Superseded by the charter of Sacramento, 1898, p. 547, § 5.

ACT 3038.

To incorporate. [Stats. 1863, p. 415.]

Supplemented 1868-64, pp. 258, 295. Amended 1868-64, pp. 198, 484; 1865-66, p. 689; 1867-68, p. 810; 1869-70, p. 889; 1871-72, pp. 243, 697, 768, 860; 1877-78, p. 590; 1889, p. 148. Superseded by the charter ratified May 17, 1892. Stats. 1893, p. 545.

Citations. Cal. 41/70; 85/411, 412; 89/891; 96/48; 102/111; 106/127; 118/894, 898, 400.

ACT 3039.

Charter of Sacramento. [Stats. 1893, p. 545.]

Amended 1905, p. 924.

Citations. Cal. 158/370, 371. App. 1/463, 465; 6/224.

ACT 3040.

Election of attorney for. [Stats. 1877-78, p. 173.]

Superseded by chapter 49 of the charter of Sacramento, 1898, p. 568.

ACT 3041.

Auditor and ex officio clerk of board of trustees, salary of. [Stats. 1873-74, p. 714.]

Repealed by the charter of Sacramento, 1898, p. 547.

ACT 3042.

Redemption of funded indebtedness. [Stats. 1871-72, p. 546.]

Amended 1887, p. 75; 1889, p. 825. All of these acts repealed 1899, p. 85.

Citations. Cal. 71/812.

ACT 3043.

To confer upon Sacramento City the power to construct canals and levees. [Stats. 1877-78, p. 852.]

See charter of Sacramento, 1898, p. 547, § 70.

ACT 3044.

Authorizing George W. Chesley to lay gas-pipes in. [Stats. 1871-72, p. 730.]

ACT 3045.

Establishing and maintaining a dispensary in. [Stats. 1871-72, p. 531.]
Probably repealed by art XII of the charter of Sacramento, 1898, p. 598.

ACT 3046.

To provide for the drainage of Sacramento City, and of swamp land district number two. [Stats. 1867-68, p. 127.]

Amended 1869-70, p. 127; 1871-72, p. 854.

Citations. Cal. 52/560; 59/597.

ACT 3047.

Establishing paid fire department in. [Stats. 1871-72, p. 866.]

Supplemented 1873-74, p. 806. Superseded by art. X of the charter of Sacramento, 1898, pp. 591-595.

ACT 3048.

Exempt Firemen's Association of, organizing. [Stats. 1871-72, p. 715.]

ACT 3049.

Expert, appointment of. [Stats. 1875-76, p. 362.]

Repealed by the charter of Sacramento.

ACT 3050.

Authorizing suit against by John Hoagland et al. [Stats. 1875-76, p. 214.]

Amended 1875-76, p. 865.

Unconstitutional: Hoagland v. Sacramento, 52 Cal. 142.

ACT 3051.

City and county, streets and roads in. [Stats. 1873-74, p. 728.]

Amended 1875-76, by repealing § 1, p. 808. Section 2 repealed 1907, p. 980.

ACT 3052.

Streets, improvement of. [Stats. 1875-76, p. 157.]

Superseded by the charter of Sacramento, 1898, p. 546.

ACT 3053.

Legalizing the assessment of a street tax. [Stats. 1873-74, p. 896.]

Unconstitutional: People v. Lynch, 51 Cal. 15.

ACT 3054.

Legalizing street assessment in. [Stats. 1873-74, p. 691.]

Unconstitutional: People v. Lynch, 51 Cal. 15.

ACT 3055.

Payment of school moneys into the treasury of. [Stats. 1875-76, p. 860.]

ACT 3056.

Granting swamp lands to. [Stats. 1857, p. 155.]

ACT 3057.

Further powers of board of trustees. [Stats. 1875-76, p. 624.]

Amended 1877-78, p. 840. Superseded by the charter of Sacramento.

ACT 3058.

Relative to boards of trustees. [Stats. 1877-78, p. 639.]

Superseded by the charter, 1893, p. 545.

ACT 3059.

Collection of water rates in. [Stats. 1877-78, p. 369.]

Superseded by the charter, 1893, p. 545.

ACT 3060.

An act to repeal an act entitled, "An act to further define the powers of the board of trustees of the city of Sacramento," approved March 22, 1886. [Approved March 23, 1907. Stats. 1907, p. 930.]

There is an error in the title of this act.

TITLE 422.**SACRAMENTO COUNTY.****ACT 3064.**

Government of. [Stats. 1873-74, p. 909.]

Amended 1875-76, p. 280; 1877-78, p. 267. Superseded by County Government Acts: See 1897, p. 452.

ACT 3065.

In relation to assessor of. [Stats. 1877-78, p. 87.]

Repealed by County Government Acts: See 1897, p. 507, § 162.

ACT 3066.

Fixing compensation of district attorney. [Stats. 1871-72, p. 863.]

Superseded by County Government Act, 1897, p. 452.

ACT 3067.

East Park, protection of property of. [Stats. 1873-74, p. 465.]

ACT 3068.

Fees of justices of the peace and constables in. [Stats. 1873-74, p. 863.]

Repealed by fee bill, 1895, pp. 270, 272.

ACT 3069.

Fees of office and compensation of officers. [Stats. 1873-74, p. 204.]

Supplemented 1878-74, p. 713. Repealed as to the officers therein named by the fee bill, 1895, p. 267, and County Government Act, 1897, p. 452.

ACT 3070.

To provide an additional judge for. [Stats. 1895, p. 48.]

ACT 3071.

Board of levee commissioners, additional powers conferred on. [Stats. 1877-78, p. 73.]

Repealed 1877-78, p. 358.

ACT 3072.

Concerning construction and repair of levees in Sacramento County. [Stats. 1862, p. 151.]

Amended 1862, pp. 459, 548; 1863, p. 468.

Citations. Cal. 52/148; 73/268; 148/215, 219, 221, 222.

ACT 3073.

Additional notaries public in. [Stats. 1871-72, p. 881.]

Repealed by Political Code, § 791.

This act provided for the appointment of four additional notaries.

ACT 3074.

Transcribing of certain records in. [Stats. 1873-74, p. 475.]

ACT 3075.

Public roads in. [Stats. 1875-76, p. 658.]

Repealed in part by 1883, p. 5, c. X, § 2, and by County Government Act, 1897, p. 452.

ACT 3076.

Roads in. [Stats. 1873-74, p. 728.]

Amended 1875-76, by repealing § 1, p. 308.

ACT 3077.

Allowing certain persons to take possession of and improve a certain road in. [Stats. 1873-74, p. 599.]

The road referred to in this act was what was commonly known as the Georgiana Slough Road.

ACT 3078.

Restricting sheep from being herded or running at large in. [Stats. 1875-76, p. 305.]

As to running at large: See 1897, p. 198; 1901, p. 608.

ACT 3079.

Relating to president and clerk of board of supervisors of. [Stats. 1871-72, p. 721.]

Repealed by County Government Act, 1897, p. 452.

ACT 3080.

Defining powers of board of supervisors of. [Stats. 1871-72, p. 216.]

Repealed by County Government Act, 1897, p. 452.

ACT 3081.

Prescribing the manner of counting the moneys in the hands of the treasurer of. [Stats. 1875-76, p. 831.]

Superseded by County Government Act, 1897, p. 483, § 115.

TITLE 423.**SALES.****ACT 3083.**

An act to prevent false and incorrect representations and advertisements concerning articles offered for sale and prescribing a punishment for the violation thereof.

[Approved April 22, 1909. Stats. 1909, p. 1078.]

§ 1. Any firm, person, corporation or association of persons, or any employee of such or any of such, who in the newspapers or other periodicals of this state, or in public advertisements, or in communications intended for a large number of persons knowingly makes or disseminates any statements or assertions of facts with respect to his, its or their business affairs concerning the quantity, the quality, the value, the price, the method of production or manufacture, or the fixing of the price of his, its, or their merchandise or professional work; or the manner or source of purchase of such merchandise, or the possession of awards, prizes or distinctions; or the motive or purpose of a sale, intended to have the appearance of an advantageous offer, which is or are untrue or calculated to mislead, shall be guilty of a misdemeanor.

TITLE 424.**SALINAS CITY.****ACT 3086.**

Incorporation of. [Stats. 1873-74, p. 242.]

Repealed 1875-76, p. 119.

ACT 3087.

Reincorporating. [Stats. 1875-76, p. 94.]

Amended 1895, p. 206.

Superseded by charter 1903, p. 599.

TITLE 425.

SALINAS RIVER.

ACT 3092.

To declare Salinas River in Monterey County, a navigable stream.
[Stats. 1861, p. 49.]

Incorporated in Political Code, § 2849.

TITLE 426.

SAN ANTONIO CREEK.

ACT 3097.

To declare navigable the Arroyo del San Antonio or Keyes Creek, in Marin County. [Stats. 1860, p. 126.]

Amended in 1878-74, p. 564. Incorporated in Political Code, § 2849.

ACT 3098.

To authorize the construction of a swing or draw bridge across the San Antonio Creek, in Alameda County. [Stats. 1869-70, p. 693.]

Amended 1871-72, p. 83.

TITLE 427.

SAN BENITO COUNTY.

ACT 3103.

Act creating. [Stats. 1873-74, p. 95.]

Supplemented 1878-74, p. 428. The latter act supplemented 1875-76, p. 177.
Original act amended 1887, p. 108.

ACT 3104.

Provisions of act of 1873-74, p. 50, to prevent trespassing of animals, made applicable to. [Stats. 1873-74, p. 474.]

Repealed 1877-78, p. 176; 1897, p. 198; 1901, p. 608.

ACT 3105.

Licenses in. [Stats. 1877-78, p. 272.]

Superseded by Political Code, § 8866, as amended 1901, p. 685, and by County Government Acts: See 1897, p. 478, § 55.

ACT 3106.

Legalizing transcribed records of. [Stats. 1875-76, p. 512.]

ACT 3107.

Directing the transcription of matters of record from Fresno and Merced counties to San Benito County. [Stats. 1889, p. 107.]

ACT 3108.

Roads and highways in. [Stats. 1877-78, p. 273.]

Repealed 1888, p. 5, c. X, § 2.

TITLE 428.

SAN BERNARDINO CITY.

ACT 3110.

Charter of. [Stats. 1905, p. 940.]

Amended 1909, p. 1166.

Citations. Cal. 158/26. App. 8/717, 718, 719, 720.

ACT 3111.

Granting to, state's interest in certain lands. [Stats. 1871-72, p. 362.]

This act conveyed to the city any land which may have escheated to the state on the incorporation becoming extinct on March 6, 1868.

TITLE 429.

SAN BERNARDINO COUNTY.

ACT 3113.

Making act protecting agriculture and preventing the trespassing of animals. [Stats. 1871-72, p. 510.]

Repealed provisionally, 1878-74, p. 190; also 1897, p. 198; 1901, p. 608.

ACT 3114.

Protection of agriculture, and preventing trespassing of animals upon private property. [Stats. 1875-76, p. 307.]

Repealed 1897, p. 198.

ACT 3115.

Regulating and protecting bee-keeping in. [Stats. 1877-78, p. 563.]

ACT 3116.

District attorney, salary of. [Stats. 1875-76, p. 389.]

Repealed by County Government Acts: See 1897, p. 516, § 167.

ACT 3117.

Regulating fees of office and salaries of officers of. [Stats. 1871-72, p. 490.]

Amended 1874, p. 180. Repealed by fee bill, 1895, p. 269, and by County Government Act, 1897, p. 516, § 161.

ACT 3118.

Officers and fees of office in. [Stats. 1873-74, p. 616.]

See §§ 217, 218, 221, County Government Act, 1897, pp. 578, 574.

ACT 3119.

Salaries and fees. [Stats. 1877-78, p. 80.]

Repealed by County Government Acts: See 1897, p. 516, § 167.

ACT 3120.

Irrigation, protecting, and making water rights responsible for expenses incurred on irrigating ditches. [Stats. 1875-76, p. 486.]

ACT 3121.

To provide an additional judge for. [Stats. 1887, p. 19.]

ACT 3122.

Public records in office of county recorder. [Stats. 1875-76, p. 853.]

This act provided for the transcription and preservation of the records.

ACT 3123.

Making the provisions of the Political Code concerning highways applicable to. [Stats. 1875-76, p. 57.]

ACT 3124.

Legalizing records in. [Stats. 1860, p. 82.]

ACT 3125.

Providing for election of supervisors in. [Stats. 1873-74, p. 111.]

Superseded by County Government Act, 1897, p. 452.

ACT 3126.

To divide into supervisor districts. [Stats. 1877-78, p. 799.]

Repealed by County Government Acts: See 1897, p. 452.

ACT 3127.

Supervisors, compensation of. [Stats. 1875-76, p. 438.]

Repealed by County Government Acts: See 1897, p. 452.

ACT 3128.

To authorize the construction of a wagon road in, and to provide for the payment of the cost. [Stats. 1877-78, p. 586.]

ACT 3129.

Board of water commissioners for. [Stats. 1863-64, p. 87.]

Amended 1865-66, p. 92.

TITLE 430.

SAN BUENAVENTURA.

ACT 3139.

Incorporating. [Stats. 1865-66, p. 216.]

Superseded by 1878-74, p. 54, reincorporating.

ACT 3140.

Reincorporating. [Stats. 1875-76, p. 534.]

Amended 1877-78, p. 587.

ACT 3141.

Reincorporating, and approving certain ordinances and proceedings.
[Stats. 1873-74, p. 54.]

Superseded by reincorporation by statute of 1875-76, p. 534.

TITLE 431.**SAN DIEGO CITY.****ACT 3145.**

Charter of. [Stats. 1889, p. 643.]

Amended 1901, p. 879; 1905, 901; 1909, 1187.

Citations. Cal. 97/480; 100/572; 117/857; 118/541, 544, 545, 552, 595, 596; 120/488; 128/872; 131/399, 800, 801, 803, 806, 807; 141/318, 320. App. 2/784; 5/266, 268, 269, 272; 6/788; 8/42, 43.

ACT 3146.

Act to reincorporate. [Stats. 1871-72, p. 285.]

Repealed 1875-76, p. 815.

ACT 3147.

Reincorporating. [Stats. 1875-76, p. 806.]

Amended 1889, p. 302. Superseded by charter, 1889, p. 643.

Citations. Cal. 67/105; 77/513, 514, 515, 516, 517; 108/277.

This amendment was declared unconstitutional: *People ex rel. Miller v. San Diego*, 85 Cal. 369.

ACT 3148.

Legalizing conveyances of pueblo lands in. [Stats. 1869-70, p. 409.]

ACT 3149.

Concerning conveyances by municipal authorities of. [Stats. 1873-74, p. 85.]

Citations. Cal. 101/527.

This act validated deeds made without a seal.

ACT 3150.

To legalize, ratify, and confirm certain conveyances of land made by municipal authorities of. [Stats. 1871-72, p. 309.]

ACT 3151.

Authorizing trustees of the city of to convey lands to the United States.
[Stats. 1867-68, p. 8.]

This act authorized the conveyance of lands to the United States for military or naval purposes.

ACT 3152.

To transfer certain real estate to the United States. [Stats. 1875-76, p. 154.]

This act authorized the transfer of realty necessary to change the course of the river San Diego.

ACT 3153.

Ratifying a conveyance made by the city of to Richard C. McCormick.
[Stats. 1875-76, p. 882.]

ACT 3154.

Legalizing certain ordinances of and repealing others with reference to
Texas & Pacific Railroad Company. [Stats. 1873-74, p. 370.]

ACT 3155.

Port of, establishing pilots and pilot regulations. [Stats. 1871-72, p.
650.]

ACT 3156.

School districts, legalizing and confirming boundaries of. [Stats. 1873-
74, p. 391.]

ACT 3157.

An act authorizing the city of San Diego and the authorities thereof
to convey a portion of La Jolla Park, in said city, to the regents
of the University of California for the purposes of a biological
station. [Approved February 7, 1907. Stats. 1907, p. 2.]

TITLE 432.**SAN DIEGO COUNTY.****ACT 3159.**

An act to authorize and provide for the transfer to the United States
of the title to and the jurisdiction over certain tide lands in San
Diego Bay, San Diego County, State of California, and to empower
the Board of State Harbor Commissioners for the bay of San Diego
as the agent of the state to make such transfer. [Approved June
16, 1906. Stats. 1906, p. 77.]

ACT 3161.

Government of. [Stats. 1875-76, p. 558.]

Repealed by County Government Acts: See 1897, p. 452.

ACT 3162.

Providing for government of. [Stats. 1871-72, p. 191.]

Amended 1873-74, p. 221. Certainly modified and probably repealed by
County Government Act, 1897, p. 452.

ACT 3163.

To protect agriculture, and prevent trespassing of animals upon private
property. [Stats. 1875-76, p. 458.]

Amended 1877-78, p. 245. Repealed by the stray law, 1897, p. 198, and
1901, p. 608.

ACT 3164.

Assessor of, compensation of. [Stats. 1873-74, p. 443.]

Repealed by County Government Acts: See 1897, p. 513, § 165.

ACT 3165.

Officers and fees of office in. [Stats. 1873-74, p. 616.]
See §§ 217, 218, 221, County Government Act, 1897, pp. 573, 574.

ACT 3166.

Fees of office and salaries of officers. [Stats. 1875-76, p. 586.]
Amended 1877-78, p. 128. Repealed by County Government Acts: See 1897, p. 513, § 165; and by the fee bill, 1895, p. 267.
Kept in force by the constitution of 1879: People v. Hamilton, 103 Cal. 488.

ACT 3167.

To appropriate funds for the use of county clerk of. [Stats. 1877-78, p. 108.]
Repealed by County Government Acts: See 1897, p. 513, § 165.

ACT 3168.

Additional notaries public. [Stats. 1871-72, p. 238.]
Superseded by Political Code, § 791.
This act provided for the appointment of three additional notaries.

ACT 3169.

Supervisors to transfer certain funds of. [Stats. 1877-78, p. 257.]
Superseded by subd. 18, § 25, County Government Act, 1897, p. 463.
This act authorized the transfer of funds from the swamp land fund to the contingent fund.

ACT 3170.

Funding indebtedness of. [Stats. 1877-78, p. 540.]

ACT 3171.

To increase the number of superior judges in. [Stats. 1889, p. 5.]

ACT 3172.

To reduce the number of superior judges in. [Stats. 1895, p. 24.]

ACT 3173.

Roads and highways in. [Stats. 1877-78, p. 50.]
Repealed 1883, p. 5, a. X, § 2.

ACT 3174.

An act providing for authority to use the tide waters of the entrance to "False Bay" in San Diego County, and certain lands adjacent thereto, to propel machinery; and to permit the erection and maintenance of structures for the installation, maintenance and operation of such machinery; and fixing the charge therefor. [Approved March 20, 1905. Stats. 1905, p. 294.]

TITLE 433.
SAN FRANCISCO.

There are a number of acts relating to cities and counties of the first class, as follows:

An act relating to assistants to city attorneys in cities over 100,000.
[See ante, "City Attorney."]

An act relating to deputies, clerks, and copyists. [See ante, tit. "County Clerk."]

An act relating to coroners. [See ante, tit. "Coroners."]

An act providing for the manner of paying fees in cities and counties of the same class. [See ante, tit. "Fees."]

An act to regulate the quality and standard of illuminating power and gas in cities over 100,000. [See ante, tit. "Gas."]

An act conferring on cities of the first class power to provide for the erection of a municipal hospital. [See ante, tit. "Hospitals."]

An act relating to Italian interpreters in cities over 100,000. [See ante, tit. "Interpreters."]

An act relating to the recovery of judgments in cities of over 100,000.
[See ante, tit. "Counties," "Judgments."]

An act relating to police in cities of the first class. [See ante, tit. "Police."]

An act conferring on the governing bodies of cities and cities and counties over 100,000 inhabitants the power to acquire or condemn land for a suitable site and erect thereon suitable buildings for municipal purposes. [See ante, Act 2364.]

An act relating to treasurers' deputies and clerks in cities and counties over 200,000. [See post, tit. "Treasurers."]

Bonds for construction of seawall. [See act providing for submission of question of issuance to people, tit. "Bonds," ante.]

ACT 3176.

An act making an appropriation to pay the claim of the board of education of the city and county of San Francisco against the state of California. [Approved June 14, 1906. Stats. 1906, p. 40.]

This act appropriated \$25,000 for the purposes indicated.

ACT 3177.

Charter of San Francisco. [Stats. 1899, p. 241.]

Amended 1903, p. 583; 1907, pp. 10, 29.

Citations. Cal. 139/280, 281, 282, 284, 454, 456; 145/175, 179, 686; 150/88, 189; 151/717; 152/7. App. 1/408, 409; 3/175, 176, 286; 4/237, 238, 239, 246, 258, 259, 260, 261, 262, 263; 5/416, 417, 421; 6/219, 220, 221, 224.

ACT 3178.

For establishing and maintaining an almshouse in. [Stats. 1865-66, p. 214.]

Amended 1867-68, p. 427. Superseded by the charter of that city.

ACT 3179.

Opening Army Street in. [Stats. 1877-78, p. 270.]

ACT 3180.

Assessor to appoint deputies. [Stats. 1877-78, p. 173.]

Superseded by chap. 4 of art. IV of the charter of San Francisco.

ACT 3181.

Auditor, facilitating transaction of business in office of. [Stats. 1875-76, p. 852.]

Superseded by charter of San Francisco, c. 2, art. IV.

This act provided for a deputy auditor.

ACT 3182.

Authorizing the grading of Bay Street and the changing of its grade. [Stats. 1877-78, p. 931.]

Citations. Cal. 68/400, 402; 80/9, 10, 15.

ACT 3183.

Board of education authorized to exchange a lot of land. [Stats. 1873-74, p. 574.]

ACT 3184.

In relation to the powers and duties of board of education of. [Stats. 1871-72, p. 561.]

Repealed 1873-74, p. 782.

ACT 3185.

Defining the boundaries of San Francisco beach and water lots, and granting the same to the city. [Stats. 1851, p. 307.]

Citations. Cal. 54/42, 43, 44, 454, 459, 460, 461, 462; 118/179, 214; 137/246.

ACT 3186.

City hall, act to provide for the erection. [Stats. 1869-70, p. 738.]

Citations. Cal. 42/550; 110/222.

ACT 3187.

Purchaser of city hall lots, execution and delivery of deeds to. [Stats. 1873-74, p. 939.]

ACT 3188.

New city hall, completion of. [Stats. 1875-76, p. 461.]

Amended 1877-78, pp. 82, 382.

Citations. Cal. 56/386; 60/313; 61/524; 67/157, 158, 159; 110/222, 224; 114/330.

ACT 3189.

Board of city hall commissioners, abolishing. [Stats. 1873-74, p. 828.]
Supplemented 1875-76, p. 863.

ACT 3190.

Cemetery Avenue, authorizing supervisors to convey a certain piece of land comprising. [Stats. 1873-74, p. 272.]

ACT 3191.

To provide for an open canal through Channel Street in. [Stats. 1867-68, p. 355.]

Citations. Cal. 64/500; 79/543.

ACT 3192.

Channel Street and Mission Creek, construction of open canal through. [Stats. 1871-72, p. 926.]

Citations. Cal. 54/78; 64/501, 502.

ACT 3193.

City board of examination, conferring further power upon, and upon the board of education, auditor, and treasurer. [Stats. 1873-74, p. 177.]

ACT 3194.

Authorizing commissioners of the funded debt to transfer certain funds and property to. [Stats. 1871-72, p. 909.]

ACT 3195.

To authorize the commissioners of the funded debt to compromise and settle certain claims to real estate and to convey such real estate pursuant thereto. [Stats. 1862, p. 217.]

Amended 1863, p. 69. Time extended, 1863-64, p. 474.

ACT 3196.

Authorizing sales and conveyances by commissioners of the funded debt of. [Stats. 1865-66, p. 686.]

Citations. Cal. 54/461.

ACT 3197.

Legalizing conveyances made by the commissioners of the sinking fund. [Stats. 1858, p. 84.]

This act confirmed certain sales made by the commissioners on January 25, 1851. See Act 3200, post.

ACT 3198.

Authorizing mayor of to convey certain lands, to the San Francisco Lying-in Hospital and Foundling Asylum. [Stats. 1871-72, p. 513.]

ACT 3199.

Authorizing supervisors to sell and convey a certain piece of land comprising old Cemetery Avenue and the triangular plaza reserved by the Outside Land Committee up to the new Cemetery Avenue. [Stats. 1871-72, p. 234.]

ACT 3200.

To legalize certain conveyances. [Stats. 1857, p. 200.]

Citations. Cal. 53/596.

This act confirmed sales at auction by the commissioners of the funded debt of San Francisco before the first day of January, 1854. See Act 3197, ante.

ACT 3201.

Authorizing conveyances to South San Francisco Homestead and Railroad Association, of certain overflowed lands in San Francisco. [Stats. 1863, p. 487.]

ACT 3202.

Providing for the relief of Jehn J. Conlin, and directing the supervisors of San Francisco to order paid to said Conlin his claim against the city. [Stats. 1895, p. 348.]

Citations. Cal. 114/406.

Unconstitutional: Conlin v. Supervisors, 114 Cal. 404.

ACT 3203.

Relative to coroners in. [Stats. 1871-72, p. 403.]

Amended 1878-74, p. 908; 1875-76, p. 897.

Citations. Cal. 46/152; 118/140; 122/638, 639, 640.

Codified in part by amendments of Penal Code, 1905: See notes to §§ 1510, 1511a, 1511b, 1512, 1514a, Penal Code.

"Modified as to appointees by § 2, c. 6, art. IV, charter of San Francisco. Superseded as to coroners generally by County Government Act, 1897, p. 490. See Kuhlman v. Superior Court, 122 Cal. 636."—Code Commissioners' Note.

ACT 3204.

Concerning costs in. [Stats. 1865-66, p. 66.]

Amended 1871-72, p. 98. Repealed 1905, p. 387.

Citations. Cal. 58/67; 70/328; 89/461; 118/645, 648. App. 5/63, 64, 236.

The code commissioners in their note, which was prior to the repeal of 1903, say: "Perhaps in force as to plaintiff's costs. (Fanning v. Leviston, 98 Cal. 188; Golden G. L. Co. v. Sahrbacher, 105 Cal. 114.) Repealed 1895, p. 267 (Miller v. Curry, 118 Cal. 644), as to fees named in that act."

ACT 3205.

County clerk, act in relation to. [Stats. 1871-72, p. 58.]

See charter of San Francisco, § 14, art. XVI, and § 3, c. 6, art. V.

ACT 3206.

County clerk to keep his office open on all election days. [Stats. 1875-76, p. 142.]

Repealed 1880, p. 12.

ACT 3207.

Concerning deputies and assistants of county clerk and their salaries. [Stats. 1871-72, p. 76.]

Citations. Cal. 67/188.

"Attempted to be superseded by 1880, p. 20, c. XXVI, as amended 1891, p. 5, c. VII, but they were unconstitutional (*San Francisco v. Broderick*, 125 Cal. 188); but now superseded by charter of that city."—Code Commissioners' Note.

ACT 3208.

Additional fees for city and county attorney and his assistants. [Stats. 1871-72, p. 46.]

Superseded by § 12, 1885, p. 157.

ACT 3209.

Empowering cities and counties of over 100,000 to pay for rent of court-rooms, police stations, and for the salaries of janitors out of the general fund. [Stats. 1880, p. 114.]

Superseded by charter of San Francisco.

ACT 3210.

District attorney of San Francisco, authorizing appointment of a second assistant. [Stats. 1877-78, p. 70.]

Superseded by charter of San Francisco.

ACT 3211.

District attorney of, office of. [Stats. 1873-74, p. 602.]

Superseded by c. 8 of art. V of charter of San Francisco, 1899, p. 278.

ACT 3212.

Dupont Street, preservation of name of. [Stats. 1877-78, p. 23.]

ACT 3213.

Dupont Street, San Francisco, widening of. [Stats. 1875-76, p. 433.]

Citations. Cal. 62/18, 14, 18; 72/409, 440, 442; 92/327; 98/86; 98/672; 115/68; 120/8, 6; 132/518; 150/188, 184, 189.

ACT 3214.

To define and establish the width of East Street. [Stats. 1865-66, p. 361.]

ACT 3215.

Authorizing closing part of Elm Street in San Francisco. [Stats. 1877-78, p. 961.]

ACT 3216.

Registration of voters. [Stats. 1877-78, p. 299.]

Citations. Cal. 54/405; 55/614, 616, 621, 622, 652; 75/629; 86/65, 67, 68, 69; 88/515, 516, 517, 518; 97/84; 111/805, 806; 114/830; 126/892, 893, 894, 896, 898, 899, 402.

"Superseded in part, if not entirely, by Political Code, §§ 1127, 1128, 1129, and art. XI of the charter of San Francisco. (Fragley v. Phelan, 126 Cal. 888.)"—Code Commissioners' Note.

ACT 3217.

Concerning the fees of jurors and witnesses in the city and county of San Francisco. [Stats. 1863-64, p. 365.]

Repealed by act of 1865-66, p. 122. The repealing act was in turn repealed by the statute of 1903, p. 258.

Citations. Cal. 124/87.

Repealing act, cited, pp. 182, 272.

ACT 3218.

Fifteenth Avenue extension in, opening. [Stats. 1875-76, p. 762.]

ACT 3219.

To provide for the prevention of conflagrations and the protection of property saved from fire in San Francisco. [Stats. 1865-66, p. 79.]

Amended 1867-68, p. 280.

This act provided for the appointment of a fire marshal by the board of underwriters. It was superseded by the charter of San Francisco, c. 5, art. IX.

ACT 3220.

Providing for a paid fire department in. [Stats. 1873-74, p. 942.]

Superseded by the charter of San Francisco, art. IX.

ACT 3221.

Reorganizing and regulating the paid fire department of. [Stats. 1877-78, p. 685.]

Superseded by charter of that city.

Citations. Cal. 189/229, 280, 281.

ACT 3222.

Supervisors, appointment by, of messenger to board of fire commissioners. [Stats. 1873-74, p. 863.]

Probably superseded by charter of San Francisco.

ACT 3223.

Providing for support of men belonging to "paid fire department" of, if disabled while in the performance of their duties. [Stats. 1871-72, p. 703.]

Superseded by § 3, c. 7, art. IX, charter of San Francisco.

ACT 3224.

Concerning the compensation of the secretary of the fire department. [Stats. 1871-72, p. 448.]

Superseded by charter.

ACT 3225.

Authorizing president and secretary of exempt fire company to administer oaths in certain cases. [Stats. 1875-76, p. 610.]

ACT 3226.

To authorize the exempt fire company of, to receive and manage the San Francisco department charitable fund and receive from the city and county of San Francisco a house and lot for its use. [Stats. 1865-66, p. 851.]

Amended 1871-72, p. 859.

ACT 3227.

To establish and maintain a free dispensary in. [Stats. 1877-78, p. 579.]

Superseded by charter of that city.

ACT 3228.

To provide for a free public market on waterfront. [Stats. 1897, p. 238.]

Amended 1908, p. 76.

In full in Political Code, Appendix, tit. "Harbor Commissioners."

ACT 3229.

Golden Gate Park, preservation and improvement of. [Stats. 1875-76, p. 861.]

Superseded by charter of San Francisco, art. XIV.

ACT 3230.

Board of state harbor commissioners authorized to set off a part of waterfront for certain purposes. [Stats. 1871-72, p. 728.]

Superseded by Political Code, § 2524, as amended 1889.

This act authorized the setting apart of a portion of the waterfront for the exclusive use of fishermen.

ACT 3231.

Home of inebriates in. [Stats. 1869-70, p. 585.]

Repealed 1895, pp. 76, 201.

ACT 3232.

House of correction, providing funds to build a. [Stats. 1871-72, p. 878.]

ACT 3233.

In relation to the house of correction of. [Stats. 1877-78, p. 953.]

Repealed 1898, p. 5.

Citations. Cal. 64/252; 72/11; 87/79, 82; 109/266.

ACT 3234.

House of correction, act for government of, and to utilize labor of.
[Stats. 1875-76, p. 632.]

Probably repealed by the charter of San Francisco, art. II, c. 2, § 1, subd. 11.

ACT 3235.

Preventing and hunting and shooting on private grounds in. [Stats.
1871-72, p. 764.]

ACT 3236.

Illuminating power, quality, standard, and price of gas, regulating in
all cities with a population of over 100,000. [Stats. 1877-78, p.
167.]

Repealed as to San Francisco by c. 2 of art. II of the charter.

Citations. Cal. 62/591, 592, 593; 76/826, 827.

See ante, Act 1844.

ACT 3237.

Supervisors of, transferring management, control, and direction of in-
dustrial school department to. [Stats. 1871-72, p. 544.]

"Juvenile offenders are now committed to the Preston School of Industry or
the Whittier State School (1889, pp. 100, 111)."—Code Commissioners' Note.

ACT 3238.

Industrial school department of. [Stats. 1873-74, p. 271.]

Probably superseded by 1889, pp. 100, 111, c. 108 and 108.

ACT 3239.

Care of inebriates, and certain insane persons in. [Stats. 1875-76, p.
825.]

Repealed 1895, p. 76.

Citations. Cal. 95/145, 146, 150.

ACT 3240.

Inspector of steam boilers and steam tanks, appointment of. [Stats.
1875-76, p. 496.]

Repealed 1880, p. 8.

ACT 3241.

Additional interpreter for criminal courts. [Stats. 1875-76, p. 153.]

Superseded by the charter of San Francisco.

ACT 3242.

Declaring Islais Creek in, navigable. [Stats. 1867-68, p. 356.]

Repealed by § 2349, Political Code. Jurisdiction given to harbor commis-
sioners. (Sec. 2, Stats. 1877-78, p. 263.)

ACT 3243.

Ivy Avenue, to close. [Stats. 1877-78, p. 682.]

ACT 3244.

To organize and regulate the justices' court in the city and county of San Francisco. [Stats. 1865-66, p. 423.]

Amended 1869-70, p. 56; 1871-72, p. 758. Continued in force by Code of Civil Procedure, § 119, as added in 1873-74. Repealed by change in code adopted in 1880.

Citations. Cal. 48/48; 114/381.

ACT 3245.

Regulating proceedings in civil cases in justices' courts in. [Stats. 1871-72, p. 94.]

Repealed by Code of Civil Procedure, § 95.

ACT 3246.

Justices' courts for, summons in. [Stats. 1875-76, p. 855.]

Superseded by Code of Civil Procedure, § 849.

ACT 3247.

Leidesdorff Street, opening and extending. [Stats. 1875-76, p. 563.]

ACT 3248.

Licenses in. [Stats. 1877-78, p. 442.]

Superseded by charter of San Francisco.

See Purdy v. Sinton, 56 Cal. 133.

ACT 3249.

Facilitating and increasing state and county and municipal licenses in. [Stats. 1871-72, p. 736.]

Citations. Cal. 52/608; 58/572; 61/875; 62/526; 114/380.

Not repealed by codes: Ex parte Newton, 53 Cal. 571. The code commissioners say of this act: "As to collector of licenses, superseded by c. 5, art. IV of the charter of San Francisco, 1899, p. 274; as to power to impose licenses, by subd. 15, § 1, c. 2, art. II of the same charter, 1899, p. 248; and probably the whole statute is superseded by the various provisions of this charter."

ACT 3250.

Concerning collector of licenses. [Stats. 1875-76, p. 860.]

Superseded by charter of San Francisco, c. 5, art. IV.

ACT 3251.

Manufacture of acids and explosive chemicals in. [Stats. 1875-76, p. 360.]

Repealed by charter of San Francisco.

ACT 3252.

To fix the salary of the clerk of the mayor of. [Stats. 1877-78, p. 1023.]

Superseded by charter of that city.

ACT 3253.

To declare Mission Creek in the county of San Francisco a navigable stream. [Stats. 1854, p. 190, Kerr's ed., p. 19.]

Incorporated in Political Code, § 2349.

ACT 3254.

Montgomery Avenue, modifying grade and providing for grade of. [Stats. 1875-76, p. 753.]

Citations. Cal. 67/47, 48, 50, 51, 52; 76/52; 102/448.

Declared impracticable in the Montgomery Avenue case: 54 Cal. 579.

ACT 3255.

Montgomery Avenue, ratifying certain orders relative to street work on. [Stats. 1877-78, p. 341.]

Citations. Cal. 68/480; 76/311.

Unconstitutional: Fanning v. Schammel, 68 Cal. 428; Kelly v. Luning, 76 Cal. 309.

ACT 3256.

Establishing and opening Montgomery street south. [Stats. 1877-78, p. 932.]

ACT 3257.

Montgomery Avenue, opening and establishing. [Stats. 1871-72, p. 911.]

Supplemented 1872-74, p. 522.

Citations. Cal. 47/357, 359, 361; 57/164, 166, 167, 174, 175 177; 59/220, 221, 228, 227, 228, 230, 234; 79/392; 87/47, 149; 154/718.

ACT 3258.

To provide a public morgue in. [Stats. 1885, p. 25.]

Superseded by c. 6 of art. IV, and subd. 9 of c. 2 of § 1 of art. II of the charter of San Francisco.

ACT 3259.

Mutual real estate company, sales and conveyances of. [Stats. 1875-76, p. 525.]

This act authorized the surviving trustees to make sales and conveyances.

ACT 3260.

North Beach and Mission Railroad Company, granting certain privileges to. [Stats. 1873-74, p. 851.]

See ante, Acts 2489, 2490.

ACT 3261.

North Beach and Mission Railroad Company, granting certain privileges to. [Stats. 1875-76, p. 525.]

ACT 3262.

Additional notaries public. [Stats. 1871-72, p. 184.]

Repealed by Political Code, § 791.

This act provided for a notary to reside at Yerba Buena.

ACT 3263.

Additional notary for. [Stats. 1873-74, p. 139.]

Repealed by Political Code, § 791.

ACT 3264.

Providing for the appointment of an additional notary public. [Stats. 1880, p. 106.]

Superseded by Political Code, § 791.

This act required the keeping of an office at the Presidio.

ACT 3265.

Authorizing the appointment of a notary public in the city and county of San Francisco, to reside and transact notarial duties at Yerba Buena Island, or Goat Island, in the bay of San Francisco, in addition to the number of notaries now authorized by law for said city and county. [Stats. 1903, p. 26.]

This act appears in full in Political Code, Appendix, tit. "San Francisco."

ACT 3266.

Supervisors, ratifying and confirming certain ordinances and resolutions of. [Stats. 1873-74, p. 487.]

This act ratified certain ordinances and resolutions relating to street work.

ACT 3267.

Supervisors, ratifying and confirming certain ordinances of, relating to street work. [Stats. 1873-74, p. 588.]

Citations. Cal. 58/45.

Unconstitutional: Reis v. Graff, 51 Cal. 86; Brady v. King, 53 Cal. 44.

ACT 3268.

Supervisors, legalizing, ratifying, and confirming certain orders and resolutions of. [Stats. 1873-74, p. 589.]

Citations. Cal. 51/90.

These orders and resolutions related to the grading of Townsend Street.

ACT 3269.

Ratifying order of supervisors of. [Stats. 1873-74, p. 789.]

This ordinance authorized the conveyance of a tract of land to one George F. Sharp on the performance of certain conditions.

ACT 3270.

Confirming order 800, quieting title to lands in. [Stats. 1867-68, p. 379.]

See, also, 1867-68, p. 410.

ACT 3271.

Confirming ordinance 840 of supervisors of. [Stats. 1869-70, p. 213.]

This ordinance pledged the city to pay \$8,000 to persons advancing that amount to the Mechanic's State Council.

ACT 3272.

To confirm order number 883 of the board of supervisors of. [Stats. 1869-70, p. 83.]

This order provided for an exchange of deeds between the city and county of San Francisco and Edward Tompkins to certain land in what is known as Hamilton Square.

ACT 3273.

Confirming order No. 1004 of board of supervisors. [Stats. 1871-72, p. 511.]

This was an ordinance requiring property owners to fence lots and to prevent drifting sand.

ACT 3274.

Confirming order No. 1404 of the board of supervisors of. [Stats. 1877-78, p. 338.]

Citations. Cal. 54/574; 64/509, 510, 511.

ACT 3275.

Ratifying resolution 11,900 of supervisors of. [Stats. 1877-78, p. 630.]

This resolution vacated certain streets.

ACT 3276.

To extend the jurisdiction of the park commissioners to a certain highway. [Stats. 1877-78, p. 967.]

This extended their jurisdiction over Point Lobos Avenue.

ACT 3277.

Pharmacy, regulating practice of, in. [Stats. 1871-72, p. 681.]

Amended 1875-76, p. 588; 1877-78, p. 838. Repealed 1888, p. 98.

ACT 3278.

Practice of pharmacy in. [Stats. 1875-76, p. 583.]

Amending 1871-72, p. 681. Repealed 1888, p. 98.

ACT 3279.

Increasing and regulating police force of. [Stats. 1871-72, p. 512.]

Superseded by a. 1-7 of art. VIII of the charter of San Francisco.

ACT 3280.

To enable the supervisors of San Francisco to increase the police force. [Stats. 1877-78, p. 879.]

Amended 1877-78, p. 965. Superseded by 1889, p. 108, and the charter of that city: See Pennie v. Reis, 80 Cal. 266; Clark v. Police Commissioners, 123 Cal. 24.

Citations. Cal. 61/822, 824, 825; 64/878; 66/655; 87/548, 544; 110/450; 458; 128/24; 127/551, 552. App. 1/497.

AOT 3281.

To create an additional police judge's court. [Stats. 1881, p. 74.]
Superseded by c. 8 of art. V of the charter of San Francisco.

AOT 3282.

To create a police court. [Stats. 1889, p. 62.]
Supplemented 1893, p. 9. Superseded by the charter of that city, c. 8, art. V.
Citations. Cal. 78/421, 422, 423; 95/145, 147, 150; 145/747.
Supplemental act cited, 145/747.

AOT 3283.

Police judge's court, authorizing prosecuting attorney to appoint clerk.
[Stats. 1875-76, p. 856.]
Superseded by charter of San Francisco, c. 8, art. V.

AOT 3284.

To empower consolidated cities and counties of over 100,000 inhabitants to make alterations in county prisons. [Stats. 1880, p. 100.]
Superseded by charter of San Francisco.

AOT 3285.

Providing for improvement of public parks. [Stats. 1869-70, p. 802.]
Amended 1871-72, p. 706. Superseded by charter of San Francisco, 1899, p. 854.
Citations. Cal. 76/159.
This act created the office of park commissioners.

AOT 3286.

Concerning certain public reservations for. [Stats. 1873-74, p. 333.]
This act made certain reservations for park and reservoir purposes.

AOT 3287.

To establish a quarantine for the bay and harbor of San Francisco, and sanitary laws for the city and county of San Francisco. [Approved April 4, 1870. Stats. 1869-70, p. 716.]
Amended 1875-76, p. 805. Superseded by the charter.
Citations. Cal. 79/113.

AOT 3288.

Providing for repair and improvement of roads and highways in. [Stats. 1871-72, p. 901.]
Probably repealed by 1883, p. 5, c. X, § 2; also by charter of San Francisco of 1899.

ACT 3289.

Regulation of sailor boarding-houses and shipping offices. [Stats. 1869-70, p. 241.]

Superseded by original §§ 2588 et seq. of the Political Code. These sections were in turn repealed. (Amendments 1875-76, p. 52.)

ACT 3290.

To provide for the payment of certain salaries in, out of the "Special Fee Fund." [Stats. 1877-78, p. 630.]

Superseded by charter of that city.

This act provided for the payment of the salaries of certain clerks appointed by the supervisors and not otherwise provided for by law.

ACT 3291.

Authorizing the conveyance of a certain lot to San Francisco Ladies' Protection and Relief Society. [Stats. 1871-72, p. 765.]

ACT 3292.

To provide for the San Francisco law library. [Stats. 1869-70, p. 235.]

Amended 1880, p. 40. See c. 9, art. V. charter of San Francisco, 1899, p. 284.

ACT 3293.

Common schools of. [Stats. 1871-72, p. 846.]

Citations. Cal. 55/500; 66/475; 81/544, 545, 549; 82/598; 89/218, 220; 152/518, 519.

Superseded by art. VII of the charter of San Francisco, 1899.

ACT 3294.

Support of common schools of. [Stats. 1875-76, p. 902.]

Superseded by charter of San Francisco.

ACT 3295.

Seventh Street, opening. [Stats. 1875-76, p. 772.]

ACT 3296.

Seventh Street, between Bryant and Brannan streets, establishing grade of. [Stats. 1877-78, p. 232.]

ACT 3297.

Sixth Street, opening and establishing, and opening Channel Street. [Stats. 1875-76, p. 866.]

ACT 3298.

Authorizing the construction of a sewer. [Stats. 1877-78, p. 943.]

This act authorized the construction of a sewer to drain the lagoon known as Washerwoman's Bay.

ACT 3299.

Concerning sheriff of. [Stats. 1871-72, p. 904.]

Superseded by charter of San Francisco, § 2, c. 6, art. V.

ACT 3300.

Sheriff, relating to office of. [Stats. 1877-78, p. 355.]
Superseded by charter of San Francisco, a. 6, art. V.

ACT 3301.

Certain streets, grades in, modifying. [Stats. 1875-76, p. 500.]

ACT 3302.

To change the grade of certain street crossings. [Stats. 1877-78, p. 966.]

ACT 3303.

Legalizing grades of certain streets. [Stats. 1873-74, p. 590.]

ACT 3304.

Street repairs in. [Stats. 1877-78, p. 4.]
Superseded by charter of San Francisco.

ACT 3305.

Authorizing and facilitating repair of streets and sewers of, in case of urgent necessity. [Stats. 1877-78, p. 544.]
Superseded by charter of that city.

ACT 3306.

For the payment of street assessments against the property of the United States in. [Stats. 1867-68, p. 148.]
Repealed by the charter of that city, art. VI, a. 2, § 8.

ACT 3307.

Street improvements. [Stats. 1871-72, p. 804.]

Amended 1877-78, p. 139.

Citations. Cal. 52/482; 54/56, 247, 487, 567; 56/366; 57/235, 299, 517; 58/582, 586; 60/555; 61/280; 63/366, 401, 449; 65/374; 66/114, 129, 534; 67/48; 69/473, 640; 75/363; 76/105, 150, 151, 320, 321, 546; 80/5, 10, 15; 82/12, 18; 84/142; 87/13, 42, 43; 89/306, 320; 93/161; 97/310, 573; 103/160; 125/140; 129/275.

"Superseded by constitution of 1879. (McDonald v. Patterson, 54 Cal. 245; Thomason v. Ruggles, 69 Cal. 465.)"—Code Commissioners' Note. See, however, City Imp. Co. v. Broderick, 125 Cal. 139, 140.

ACT 3308.

Certain streets closed. [Stats. 1873-74, p. 192.]

ACT 3309.

Vacating certain streets, alleys, and market-places in. [Stats. 1871-72, p. 722.]

Amended 1873-74, p. 359; 1903, p. 363.

ACT 3310.

Superintendent of streets, further powers granted to. [Stats. 1875-76, p. 507.]

Repealed by Vrooman act, 1885, p. 147.

ACT 3311.

To confer on supervisors of cities and counties containing more than one hundred thousand inhabitants, power to extend and complete all intercepting sewers heretofore partially constructed. [Stats. 1880, p. 61.]

Superseded by charter of San Francisco.

ACT 3312.

Supervisors, powers of as to contracts. [Stats. 1877-78, p. 200.]

Repealed by charter of San Francisco.

ACT 3313.

Conferring further powers on board of supervisors of. [Stats. 1863, p. 560.]

Citations. Cal. 98/616.

"Remained in force (San Francisco v. Kiernan, 98 Cal. 614) until superseded by the charter of that city, 1899, p. 309."—Code Commissioners' Note.

This act conferred certain powers as to streets.

ACT 3314.

Conferring additional powers on board of supervisors and on auditor and treasurer. [Stats. 1871-72, p. 735.]

Superseded by charter of San Francisco, 1899, pp. 241-268.

ACT 3315.

Supervisors, conferring additional powers upon. [Stats. 1873-74, p. 31.]

Superseded by charter of San Francisco, 1899, p. 241.

ACT 3316.

Supervisors, conferring additional powers on. [Stats. 1875-76, p. 795.]

Citations. Cal. 52/461.

Superseded by the charter of San Francisco.

ACT 3317.

Supervisors, additional powers of. [Stats. 1877-78, p. 231.]

Superseded by the charter of San Francisco.

This act related to the grading of and work on streets.

ACT 3318.

Conferring further powers on the board of supervisors of. [Stats. 1877-78, p. 829.]

This act gave the supervisors power to appropriate money from the General Fund for urgent necessity purposes, for furniture and repairs for public buildings, and for advertising purposes.

ACT 3319.

Conferring further powers on the board of supervisors. [Stats. 1877-78, p. 915.]

Repealed 1880, p. 76.

This act authorized the supervisors to cut, fill, and grade certain streets.

ACT 3320.

To confer additional powers on the board of supervisors in relation to accepted streets. [Stats. 1877-78, p. 959.]

Superseded by the charter of that city.

ACT 3321.

Supervisors, auditor, and treasurer, additional powers of. [Stats. 1873-74, p. 711.]

Supplemented 1875-76, p. 74.

Citations. Cal. 54/74; 64/502.

This act authorized the making of certain appropriations, the acquiring of certain lands, including lands contiguous to Channel Street and Mission Creek, and the vacation and sale of certain parts of Channel Street and Mission Creek.

ACT 3322.

Supervisors, auditor, and treasurer, powers of. [Stats. 1875-76, p. 854.]

Superseded by charter of San Francisco.

Citations. Cal. 62/586, 590, 600, 601; 120/267.

This act provided for the expending of unexpended balances.

ACT 3323.

Personal property, assessment, and collection of taxes on. [Stats. 1873-74, p. 477.]

Repealed 1895, p. 808. Unconstitutional: People v. Pittsburg R. R. Co., 97 Cal. 625.

Citations. Cal. 67/625.

ACT 3324.

Tehama Street, to provide for the opening and extending of. [Stats. 1877-78, p. 802.]

ACT 3325.

Authorizing final judgments quieting titles to lands in, to be recorded. [Stats. 1865-66, p. 531.]

ACT 3326.

To expedite the settlement of land titles in. [Stats. 1869-70, p. 353.]

Citations. App. 3/283, 284, 285.

ACT 3327.

Training ship, establishing and maintaining. [Stats. 1873-74, p. 394.]

Repealed 1875-76, p. 54.

ACT 3328.

Training ship in, establishing and maintaining. [Stats. 1875-76, p. 54.]

Amended 1877-78, p. 333.

ACT 3329.

Regulating payment of money out of treasury of. [Stats. 1877-78, p. 111.]

Supplemented and amended 1877-78, p. 333. Superseded by the charter of San Francisco.

Citations. Cal. 58/582, 585; 62/590, 600; 104/317; 111/326. App. 5/418.

This act was what was known as the one-twelfth act.

ACT 3330.

Authorizing the supervisors to open Valencia street. [Stats. 1877-78, p. 923.]

ACT 3331.

Establishing the grade of Vallejo Street. [Stats. 1877-78, p. 931.]

Citations. Cal. 63/402; 80/9, 10, 15.

ACT 3332.

To ratify and confirm the Van Ness ordinance. [Stats. 1858, p. 52.]

Citations. Cal. 43/476; 47/284; 49/537, 538; 50/271, 272, 375; 54/310; 59/55; 68/555; 70/325; 76/20; 92/416; 93/244; 107/658; 108/462; 124/354; 125/585, 586; 138/226; 139/389, 548, 549.

ACT 3333.

Van Ness Avenue, to provide for the improvement of. [Stats. 1877-78, p. 829.]

ACT 3334.

Describing the waterfront of. [Stats. 1851, p. 307.]

ACT 3335.

Concerning waterfront of. [Stats. 1877-78, p. 263.]

Amended 1880, p. 10; 1889, p. 379; 1891, p. 233; 1895, p. 194; 1901, p. 627; 1905, p. 109. See Political Code, § 2524, as amended 1901, p. 619; also the case of People ex rel. State Harbor Commissioners v. Pacific Imp. Co., 180 Cal. 442.

Citations. Cal. 64/502; 81/29, 35; 130/444, 445, 448.

This act related to the jurisdiction of the harbor commissioners.

ACT 3336.

To provide for the sale of the interest of the state in property within the waterfront line. [Stats. 1853, p. 219.]

Supplemented 1855, p. 226; 1858, p. 139.

Citations. Cal. 118/215.

Unconstitutional in part: Guy v. Hermance, 5 Cal. 73.

ACT 3337.

To provide for the sale of certain property of the state of California within the waterfront line. [Stats. 1858, p. 323.]

ACT 3338.

To provide for the further extension of the waterfront line. [Stats. 1880, p. 132.]

ACT 3339.

Waterfront of, confirming title to certain property on. [Stats. 1877-78, p. 417.]

Citations. Cal. 81/29.

ACT 3340.

Water rates in, establishing. [Stats. 1875-76, p. 82.]

Amended 1875-76, p. 760. Repealed by constitution of 1879: Spring Valley W. v. Bryant, 52 Cal. 182.

Citations. Cal. 52/141; 53/611.

ACT 3341.

Waterworks for, to provide and maintain. [Stats. 1873-74, p. 807.]

Superseded by art. XII, charter of San Francisco, 1899, p. 846.

Citations. Cal. 53/885; 54/321.

This act authorized the supervisors to obtain a water supply.

ACT 3342.

Waterworks for, to provide and maintain. [Stats. 1875-76, p. 501.]

Unconstitutional: Spring Valley v. Bryant, 52 Cal. 182, 53 Cal. 611. Repealed 1880, p. 1.

ACT 3343.

Waterfront of, compromise of litigation concerning. [Stats. 1875-76, p. 905.]

ACT 3344.

Authorizing a conveyance to William Scholle, of certain water lots in San Francisco. [Stats. 1881, p. 3.]

ACT 3345.

An act to regulate the sales of perishable products on the wharves and other state property in the city and county of San Francisco by prohibiting such sales except by or in behalf of those holding permits from the board of state harbor commissioners and making such unlawful sales a misdemeanor, and prescribing the penalty therefor, and providing the conditions upon which such permits shall be issued.

[Approved March 2, 1903. Stats. 1903, p. 73.]

§ 1. It shall be unlawful for any person to sell, upon the public wharves or other property belonging to this state, in the city and county of San Francisco, and within the jurisdiction of the board of state harbor commissioners, any fruit, vegetables, poultry, eggs, honey, game, or other produce commonly known, and hereinafter referred to as perishable products, unless such person or the person, firm or corporation, which he may duly represent, shall hold the permit hereinafter described

authorizing such sales to be made. Any violation of this act shall be deemed a misdemeanor punishable by a fine of not less than twenty-five dollars or more than five hundred dollars.

§ 2. Perishable products consigned to persons, firms or corporations not holding the permit hereinafter described, and delivered by carrier upon any wharf on the San Francisco waterfront, must be removed from said wharf within twenty-four hours after their arrival, and the board of state harbor commissioners must levy and collect on such perishable products in addition to the regular state tolls, such additional wharfage as they may prescribe, but not less than the amount of the regular tolls, for each twenty-four hours or fraction thereof which such perishable products shall remain upon the wharf.

§ 3. Upon application of any person, firm or corporation receiving or expecting to receive perishable products to be delivered by carrier upon any wharf on the San Francisco waterfront, the board of state harbor commissioners shall issue free of charge to such applicant, a permit authorizing him to sell such products when delivered on the wharves or state property, during the time such perishables are permitted to remain there, under the general regulations prescribed by the commission; provided, nevertheless that said permit shall not be issued until the applicant shall have signed the application which shall read as follows:

"I (or we), — expecting to receive consignments of perishable products to be delivered by carrier on the wharves or other property of the state of California in the city and county of San Francisco, and desiring to dispose of the same before removal, hereby make application for a permit to be valid for one year from the date of issue, to sell perishable products on said wharves or other state property. In consideration of the receipt of such permit, I (or we) promise to faithfully observe all the regulations which are or may be prescribed by the board of the state harbor commissioners in regard to such sales, and in particular I (or we) agree that I (or we) will not, during the life of such permit, be a party to any conspiracy, agreement or understanding whereby I (or we) shall refuse to sell [to] any solvent purchaser or buy from any person whatever, and I (or we) agree that I (or we) will sell, impartially, and at the same prices, to all who desire to purchase for cash, without regard to their business or intended disposition of the products, and will exercise no discrimination whatever between buyers or sellers, by reason of their occupation, affiliations or nonaffiliations. I (or we) also agree that in case of violation of this agreement, the board of state harbor commissioners may revoke the permit hereby applied for, whereupon I (or we) agree to surrender the same, and I (or we) agree that the board of state harbor commissioners shall be the sole judges of the fact of such violation, I (or we) having had a hearing in the matter.

Date, —.

§ 4. The permit herein provided for shall be in such form as the board of state harbor commissioners may determine and shall be valid for one year from date of issue and no longer.

§ 5. In case of violation of his agreement by the holder of any permit the board of state harbor commissioners upon a hearing after giving due notice to all parties concerned, and finding the fact of such violation shall revoke and cancel the permit, and shall not issue a new permit to the offending party, except upon a new execution of the agreement hereinbefore set forth and the payment of a fee of fifty dollars, and the right to receive a new permit shall rest in the discretion of said board of state harbor commissioners.

§ 6. The board of state harbor commissioners and all its officials and employees are charged with the enforcement of this act, and shall eject from the wharves or other state property all persons found attempting to make sales in violation of this act. And the board of state harbor commissioners through such officials as it may from time to time designate, shall prosecute all violations of this act in the proper court.

§ 7. All acts and parts of acts in conflict with this act are hereby repealed.

§ 8. This act shall take effect immediately.

ACT 3346.

An act to regulate fees in the city and county of San Francisco. [Approved February 9, 1866. Stats. 1865-66, p. 66.]

Amended 1871-72, p. 98.

Repealed 1905, p. 387.

Citations. Cal. 98/188; 118/645, 648. App. 5/63, 64, 236.

TITLE 434.

SANITARY DISTRICTS.

ACT 3349.

An act to provide for the formation, government, operation, and dissolution of sanitary districts in any part of the state, for the construction of sewers, and other sanitary purposes; the acquisition of property thereby; the calling and conducting of elections in such districts; the assessment, levy, collection, custody, and disbursement of taxes therein; the issuance and disposal of the bonds thereof, and the determination of their validity, and making provision for the payment of such bonds, and the disposal of their proceeds.

[Approved March 31, 1891. Stats. 1891, p. 223.]

Amended 1898, p. 88; 1895, p. 85; but this amendment declared unconstitutional (In re Werner, 129 Cal. 567); also amended 1901, p. 638; 1903, p. 121; 1905, p. 94; 1907, p. 83; 1909, pp. 233, 583.

The amendatory act of 1905, referred to the act as having been approved in 1901. As this is the only act on the subject, it was evidently the intention of the legislature to amend this act.

Citations. Cal. 99/556, 557; 123/600; 129/568, 570, 572. App. 6/89.

§ 1. Whenever twenty-five persons in any county of the state shall desire the formation of a sanitary district within the county, they may present to the board of supervisors of such county a petition, in writing, signed by them, stating the name of the proposed district, and setting forth the boundaries thereof, and praying that an election be held as provided by this act. Each of the petitioners must be a resident and freeholder within the proposed district.

§ 2. When such petition is presented as above provided, the board of supervisors must, within thirty days thereafter, order that an election be held as provided by this act. The order must fix the day of such election, which must be within sixty days from the date of the order, and must show the boundaries of the proposed district, and must state that at such election persons to fill the offices provided by this act, viz.: a sanitary assessor, and five members of the sanitary board, will be voted for. This order shall be entered in the minutes of the board, and shall be conclusive evidence of the due presentation of a proper petition, and of the fact that each of the petitioners was, at the time of the signature and presentation of such petition, a resident and freeholder within the limits of the proposed district.

§ 3. A copy of such order shall be posted for four successive weeks prior to the election, in three public places within the proposed district, and shall be published for four successive weeks prior to the election in some newspaper published in the proposed district, if there be one, and if not, in some newspaper published in the county. It shall be sufficient if the order be published once a week.

§ 4. The board of supervisors, at any time prior to the election, shall select one polling place within the proposed district, and make all suitable arrangements for the holding of such election. The ticket shall contain the words "For a sanitary district," or "Against a sanitary district," as the case may be, and the name of a person for sanitary assessor, and the names of five persons for members of the sanitary board. Such election shall be conducted in accordance with the general election laws of the state, so far as the same shall be applicable, except as herein otherwise provided. Every qualified elector, resident within the proposed district for the period requisite to enable him to vote at a general election, shall be entitled to vote at the election above provided for. If a majority of the votes cast at such election shall be in favor of a sanitary district, the board of supervisors shall make and cause to be entered in the minutes an order that a sanitary district of the name and with the boundaries stated in the petition (setting forth such boundaries) has been duly established, and said order shall be conclusive evidence of the fact and regularity of all prior proceedings of every kind and nature provided for by this act or by law, and of the existence and validity of the district. If a majority of the votes cast shall

be against a sanitary district, the board shall, by order, so declare; no other proceedings shall be taken in relation thereto until the expiration of one year from the presentation of the petition.

§ 5. Every sanitary district formed under the provisions of this act shall have power to have and use a common seal, alterable at the pleasure of the sanitary board; to sue and be sued by its name; to construct and maintain, and keep clean such sewers and drains as in the judgment of the sanitary board shall be necessary or proper, and for this purpose to acquire by purchase, gift, devise, condemnation proceedings, or otherwise, such real and personal property and rights of way, either within or without the limits of the district, as in the judgment of the sanitary board shall be necessary or proper, and to pay for and hold the same; to make and accept any and all contracts, deeds, releases, and documents of any kind which, in the judgment of the sanitary board, shall be necessary or proper to the exercise of any of the powers of the district, and to direct the payment of all lawful claims and demands against it; to issue bonds as hereinafter provided, and to assess, levy, and collect taxes to pay the principal and interest of the same, and the cost of laying and the expense of maintaining any sewer or sewers that may be constructed subsequent to the issuance of said bonds, or any lawful claims against said district, and the running expenses of the district; to employ all necessary agents and assistants, and pay the same; to lay its sewers and drains in any public street or road of the county, and for this purpose enter upon the same and make all necessary and proper excavations, restoring the same to proper condition; but in case such street or road shall be in an incorporated city or town, the consent of the lawful authorities thereof shall first be obtained; to make and enforce all necessary and proper regulations for the removal of garbage, and the cleanliness of the roads and streets of the district, and for the purpose of guarding against the spread of contagious and infectious diseases, and for the isolation of persons and houses affected with such diseases, and for the notification of the other inhabitants of the existence thereof, and all other sanitary regulations not in conflict with the constitution and laws of the state; to make and enforce all necessary and proper regulations for suppressing disorderly and disreputable resorts, and houses of ill-fame within the district, and to determine the qualification of persons authorized to sell liquors at retail, and from and after the passage of this act no license to keep a saloon, or sell liquors at retail, shall take effect or be operative within any sanitary district unless the same be approved by the sanitary board of the district; to impose fines, penalties, and forfeitures for any and all violations of its regulations or orders, and to fix the penalty thereof by fine or imprisonment, or both; but no such fine shall exceed the sum of one hundred dollars, and no such imprisonment shall exceed one month; to call, hold, and conduct all elections necessary or proper after the formation of the district; to prescribe, by order, the time, mode, and manner of assessing, levying, and collecting taxes for sanitary purposes, except as otherwise provided herein; to compel all residents and

property owners within the district to connect their houses and habitations with the street sewers and drains; and generally to do and perform any and all acts necessary or proper to the complete exercise and effect of any of its powers, or the purpose for which it was formed. [Amendment approved March 26, 1895. Stats. 1895, p. 85. In effect immediately.]

See note at beginning of act.

§ 6. The officers of the district shall be a sanitary assessor and five members of the sanitary board.

§ 7. There shall be an election for sanitary assessor on every even-numbered year in which members of the sanitary board are elected, and at the same time, place, and manner; and the person then elected shall hold office for two years next thereafter, and until the election and qualification of his successor. The person elected assessor at the election at which the district was formed shall hold office until the election and qualification of his successor; provided, that if at any time a vacancy occur in the office of assessor, the sanitary board shall appoint a suitable person to fill such vacancy until the next election at which an assessor may be elected under the provisions of this act.

§ 8. It shall be the duty of the sanitary assessor to make out, before the first Monday in July of each year, a list of all the tangible real and personal property within the district. Such list shall contain a brief and general description of the property, an assessment of the value thereof, the name or names of the owner or owners, and such other matters as may be ordered by the sanitary board and such matters as shall be necessary to make such list conform to the provisions of the general laws of the state of California. The land shall be assessed separately from the improvements thereon. No mistake in the name of the owner of any of the real or personal property assessed, or any informality in the description, or in other parts of the assessment, shall invalidate the same. The sanitary assessor shall verify said list by his oath, before some officer authorized to administer oaths, and shall deposit the same with the sanitary board on the first Monday of July of each year, or as soon thereafter as is practicable. He shall have power to administer all oaths and affirmations necessary or proper in the performance of his duty as assessor, and shall receive such compensation as shall be fixed by the order of the board. He shall also perform such further duties and do such further acts as may be ordered or required by the sanitary board.

§ 9. There shall be an election for two members of the sanitary board in every even-numbered year, beginning with the second even-numbered year after the election at which the district was organized, and the two members then to be elected shall hold office until the election and qualification of their successors in the next even-numbered year; and there shall be an election for three members of the sanitary board in every odd-numbered year, beginning with the second odd-numbered year, after

the election at which the district was organized, and the three members then to be elected shall hold office until the election and qualification of their successors in the next odd-numbered year. The five members elected at the election at which the district was organized shall, at their first meeting, or as soon thereafter as may be practicable, so classify themselves, by lot, that two of them shall go out of office in the second even-numbered year after the election at which the district was organized, and upon the election and qualification of their successors, as provided by this act, and three of them in the second odd-numbered year after the election at which the district was organized, and upon the election and qualification of their successors, as provided by this act. All elections for officers after the formation of the district shall be on the first Monday after the first Tuesday in the month of March. The members of the sanitary board shall receive no compensation whatever, either for general or special services.

§ 10. The sanitary board shall be the governing power of the district, and shall exercise all the powers thereof, except the making of an assessment list in the first instance, as herein provided. At its first meeting, or as soon thereafter as may be practicable, the board shall choose one of its members as president, and another of its members as secretary. And all contracts, deeds, warrants, releases, receipts, and documents of every kind shall be signed in the name of the district by its president, and shall be countersigned by its secretary. The board shall hold such meetings, either in the day or in the evening, as may be convenient. In case of the absence or inability to act of the president or secretary, the board shall, by order entered upon the minutes, choose a president pro tem., or secretary pro tem., or both, as the case may be.

§ 11. On the first Monday of July each year, at the hour of 7:30 P. M., the sanitary board shall meet at its usual place of meeting within said district, and proceed to organize itself into a board of equalization, and if the sanitary assessor has returned the assessment list for said year said board shall proceed to equalize the property so assessed and returned by said sanitary assessor. If said assessment list has not been returned by said sanitary assessor said board must adjourn from day to day until said assessment list has been returned, and for the purpose of adjournment one or more of the members of said board present may make said adjournment and announce the same. Upon the assessment list having been returned by the assessor, said board of equalization shall proceed to equalize the property listed on said assessment list, and said board shall continue in session as a board of equalization until the property upon the entire list returned by the assessor shall have been examined, rectified and equalized, with such reasonable intermissions during the day and from day to day as may be expedient. The board shall have power to hear complaints as to the proceedings of the assessor, and to adjudicate and determine the controversy thereon, and may of its own motion raise an assessment, after such reasonable

notice to the party whose assessment is to be raised, as may be ordered by the board. After the examination and rectification of the assessor's list shall have been completed, the board shall, by resolution, fix the rate of taxation for sanitary purposes, designating the number of cents on each one hundred dollars to be levied for each fund, and shall designate the fund into which the same shall be paid; but no more than fifteen cents on each one hundred dollars shall be levied for all the sanitary purposes of any one year, besides what shall be required for the payment of the principal and interest of such year upon outstanding bonds. After the entry in the minutes of the resolution fixing the rate of taxation, the sanitary board shall cause the assessor to compute the amount of the tax upon each piece of real and personal property, and enter the same upon the assessment list in a suitable place. The list, when so completed, shall be verified by the assessor and signed by the president and secretary; and the amount of the tax shall thereupon become a lien upon the property upon which it is assessed, and shall have the effect of a judgment against the person of the owner thereof, and every such lien shall have the force and effect of an execution duly levied against all the property of the delinquent; and the judgment shall not be deemed satisfied or the lien extinguished until the taxes are paid or the property sold to satisfy the same, and no statute of limitations shall apply; but no more than seventy-five thousand dollars of bonds shall be voted for or issued at any one time, nor shall the bonded indebtedness of the district ever exceed the sum of seventy-five thousand dollars at any one period, whether it be made up of one issue of bonds or of several issues. [Amended 1905, p. 94.]

§ 12. As soon as practicable, but not later than the third Monday in July, after the taxes have been computed and extended on the assessment list, verified by the assessor and signed by the president and secretary of said board, the board shall transmit, or cause the assessor to transmit, a duplicate of the list so made, to the tax collector of the county, who shall collect the taxes shown by said list to be due, in the same manner as he collects the county taxes, and all the provisions of the laws of the state as to the collection of taxes and delinquent taxes, and the enforcement of the payment thereof, so far as applicable, shall apply to the collection of taxes for sanitary purposes; and said tax collector, and the sureties on his official bond, shall be responsible for the due performance of the duties imposed upon him by this act; provided, that the sanitary board may, in its discretion, direct the district attorney of the county to commence and prosecute suits for the collection of the whole, or any portion of the delinquent taxes; and it shall be the duty of the district attorney to carry out such directions of the sanitary board, and he, and the sureties upon his official bond, shall be responsible for the due performance of the duty imposed upon him by this act.

All money collected for sanitary purposes by the district attorney under this act shall be at once paid to the county treasurer; provided further, that the sanitary board may, at any time, by order entered in

its minutes, provide a system for the collection of delinquent taxes, or make any change in the manner of their collection, which as to such taxes shall have the force of law. Whenever any property is sold for delinquent sanitary taxes, under the provisions of this act, the tax collector shall file with the county recorder, at the expense of the purchaser, a copy of the certificate of such sale; and when at any time redemption is made of any property which has been sold for delinquent sanitary taxes the redemption officer of the sanitary district shall immediately forward a copy of the redemption certificate to the county recorder and the county recorder shall inscribe or stamp upon the margin of the certificate of sale of said property then on file in his office, the word "Redeemed," together with the date, the amount paid, and the name of the party redeeming said property; and further provided, that whenever the tax collector issues a deed to the purchaser of any property sold for delinquent sanitary taxes, the said tax collector shall forward a copy of the deed to the county recorder, and the county recorder shall then inscribe or stamp upon the margin of the certificate of sale of said property then on file in his office, the words "Deeded to," together with the date, and the name of the party to whom said deed was issued. In the event that property upon which sanitary district taxes have become delinquent is, on account of such delinquency, sold by the tax collector, and a deed therefor is issued to any person other than the state of California, the party who was of record as the owner of such property at the time of such sale and of such issuance of such deed, is hereby granted the right to redeem said property from the tax title purchaser thereof, at any time within a period of five years from and after the issuance of such deed, by the payment to the said tax title purchaser of the amount for which the said property was to him sold by the tax collector and an additional premium which shall not be greater than one hundred per cent of the said purchase price. It is hereby declared to be unlawful for any person or persons who have purchased at a delinquent tax sale any property which is sold for delinquent sanitary taxes, to demand for its redemption any sum greater than the amount which is by this act specified; or to refuse to redeem any such property to the party who was the owner thereof at the time of such delinquent tax sale, when proper tender is made, within five years after date of such sale, of an amount which is not greater than the amount which is by this act prohibited. [Amendment approved March 20, 1909. Stats. 1909, p. 583. In effect immediately.]

§ 13. The tax collector shall pay over to the county treasurer all moneys collected by him for sanitary purposes, as fast as the same shall be collected, and the said treasurer shall keep the same in the county treasury, as follows: In a fund called the bond fund of sanitary district (naming it) he shall place and keep the moneys levied by the sanitary board for such fund; and no part of the money in this fund shall be transferred to any other fund, or be used for any other purpose than the payment of the principal and interest of the bonds of the sanitary district, so long as any such bonds shall be unpaid; in a

fund called the running expense of sanitary district (naming it) he shall place and keep the moneys levied by the sanitary board for such fund. The whole or any part of the money in the running expense fund may be transferred to the bond fund, or to the other fund hereinafter provided for, upon the order of the sanitary board, and it shall be the duty of the treasurer to comply with such order. The treasurer shall pay out moneys from either of said funds, or from the fund hereinafter mentioned, only upon the written order of the sanitary board, signed by the president and countersigned by the secretary, which order shall specify the name of the person to whom the money is to be paid and the fund from which it is to be paid, and shall state generally the purpose for which the payment is made, and such order shall be entered in the minutes of the sanitary board. The treasurer shall keep the order as his voucher, and shall keep a specific account of his receipts and disbursements of money for sanitary purposes. The treasurer and sureties upon his official bond shall be liable for the due performance of the duties imposed upon him by this act. The treasurer shall keep the money arising from the sale of bonds in the fund hereinafter mentioned.

§ 14. At any time after the district is organized, the sanitary board may, by order entered in the minutes, call an election for the purpose of determining whether bonds shall be issued for the construction of sewers. Such order shall fix the day of the election and shall specify the amount of money to be raised, and shall state in general terms the purpose for which it is to be raised. A copy of such order shall be posted for four successive weeks prior to the election in at least three public places within the district, and shall be published for four successive weeks prior to the election in some newspaper published within the district, if there be one, and if not, in some newspaper published in the county. It shall be sufficient if the order be published once a week.

§ 15. At any time prior to the day fixed for the election, the board shall select one, and may select two, polling-places within the district, appoint officers of election, and make all necessary and proper arrangements for holding the election. The tickets shall contain the words "For the issuance of bonds as proposed by the sanitary board," or "Against the issuance of bonds as proposed by the sanitary board." The election shall be conducted in accordance with the general election laws of the state, so far as the same shall be applicable, except as herein otherwise provided. Every qualified elector resident within the district for the length of time necessary to enable him to vote at a general election shall be entitled to vote at the election above provided for. After the votes shall have been announced, the ballots shall be sealed up and delivered to the secretary or president of the sanitary board, which shall, as soon as practicable, proceed to canvass the same, and shall enter the result upon its minutes. Such entry shall be conclusive evidence of the fact and regularity of all prior proceedings of every kind and nature provided by this act or by law, and of the facts stated in such entry. If, at such election, two-thirds of the votes cast be in

favor of the issuance of bonds, as proposed by the sanitary board, the said board shall thenceforth have full power and authority to issue and dispose of bonds as proposed in the order calling the election. [Amendment approved March 9, 1893. Stats. 1893, p. 88. In effect immediately.]

§ 16. All bonds issued under the provisions of this act shall be of such denomination as the sanitary board may determine, except that no bonds shall be of a less denomination than one hundred dollars, nor of a greater denomination than one thousand dollars. Said bonds shall be payable in gold coin of the United States at the office of the county treasurer of the county wherein said district is situated, and shall bear interest at a rate not exceeding five (5) per centum per annum, which interest shall be payable semi-annually in like gold coin. Not less than one-twentieth part of the total issue of bonds shall be payable each year, on a day to be specified by the sanitary board, but no bonds shall be payable in installments, but each bond issued hereunder shall be payable in full on the date specified therein by said board. Each bond shall be signed by the president and countersigned by the secretary of the sanitary board, and said bonds shall be numbered consecutively, beginning with number one (1), and shall have coupons attached referring to the number of the bond to which they are attached, which coupons shall be signed by the president and countersigned by the secretary of said board. The bonds must be disposed of by the sanitary board in such manner and in such quantities as may be determined by said board in its discretion, but no bond must be disposed of for less than its face value. The proceeds of such sale shall be deposited with the county treasurer and shall be by him placed in the fund to be called the sewer construction fund of — sanitary district (naming it); the money in such fund shall be used for the purpose indicated in the order calling the election upon the question of the issuance of the bonds, and for no other purpose; provided, that if after such purposes are entirely fulfilled any balance remain in such fund, such balance may, upon the order of the sanitary board, be transferred to either of the other funds provided by this act. If the result of the election be against the issuance of bonds no other election upon the question shall be called or held for a period of one year. Whenever the entire amount of bonds issued by any one district under the provisions of the act of which this is amendatory shall be presented by the holder or holders thereof to the sanitary board of the sanitary district issuing the same, there shall be exchanged therefor and issued in lieu thereof to such holder or holders, by the sanitary board, bonds issued in accordance herewith for the various installments payable on the so surrendered bonds and said new bonds so issued in exchange for said old surrendered bonds shall be payable at the same times and place as the installments due under the old bonds; it being the intention hereof to permit the surrender of sanitary district bonds heretofore issued payable in installments by the holders thereof, and the exchange therefor of a like amount of bonds of such sanitary district having a denomination equal to the

installments payable under one or more of the bonds heretofore issued by any one sanitary district; said new bonds to be payable at the same time as said installments and in equal amounts; the amount of said new bonds to be payable in any one year to equal the amount of the installments on said old bonds payable in such year. All expenses of the exchange shall be borne by the holder of the bonds presented for exchange, and interest on the new bonds shall be paid at the same time and rate as on the old bonds. Upon such exchange being effected the old bonds shall be canceled by punching holes in the signatures thereto attached, and shall be retained by the treasurer of said county as evidence of such cancellation. [Amendment approved March 23, 1901, Stats. 1901, p. 633. In effect immediately.]

§ 17. It is hereby made the duty of the sanitary board to levy, each year, upon the property within the district, a sufficient tax to pay off the interest accruing upon said bonds for the respective year, as it falls due, and also to pay one-twentieth of the principal of said bonds, so that the entire amount of principal and interest of said bonds shall be paid within twenty years from the date of the issuance of said bonds; and it is hereby made the duty of the tax collector, or such other person as may be charged with the duty of collecting the sanitary taxes, to collect the said taxes so to be levied, and the duty of the sanitary board to order the same to be paid, in manner and form as provided by this act, and the duty of the county treasurer to pay the same. If, for any reason, any portion of the tax for any year remains unpaid, and in consequence thereof any portion of the interest or principal due for any year remains unpaid, the same shall be added to the levy for the next year, and be collected and paid accordingly. The payment of the whole amount of the principal and interest of all of said bonds, within twenty years from their issuance, is hereby made the imperative duty of the district; and, if necessary for that purpose, a special tax shall be levied; and it is hereby made the duty of every officer and board to do his respective part towards the levy, collection, and payment of such tax; and mandamus shall issue from the superior court of the county in which the district is situated, or from any other competent court, upon application of any party interested, for the purpose of compelling the performance of the duty imposed by this act upon any and all officers or boards.

§ 18. If the result of any election upon the question of the issuance of bonds be in favor of such issuance, the sanitary board may, in their discretion, before such issuance, commence, in the superior court of the county, a special proceeding to determine their right to issue such bonds and the validity thereof, similar to the proceeding in relation to irrigation bonds, provided for by an act entitled "An act supplemental to an act entitled 'An act to provide for the organization and government of irrigation districts, and to provide for the acquisition of water and other property, and for the distribution of water thereby for irrigation purposes,' approved March seventh, eighteen hundred and eighty-seven, and to provide for the examination, approval, and confirmation of pre-

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ceedings for the issue and sale of bonds issued under the provisions of said act"; and all the provisions of said act shall apply to and govern the proceedings so to be commenced by the sanitary board, so far as the same are applicable; and said proceedings shall be in accordance with the provisions of said act, so far as the same are applicable, and the judgment in such proceedings shall have the same effect as a judgment in relation to irrigation bonds under the provisions of said act.

§ 19. Any general regulation of the sanitary board shall be by order entered in the minutes, but such order shall be published once a week for one week in some newspaper published within the district, if there be one, and if there be no such newspaper then such order shall be posted for one week in three public places within the district. A subsequent order of the board that such publication or posting has been duly made shall be conclusive evidence that such publication or posting has been properly made. Orders not establishing a general regulation need not be published or posted (unless otherwise provided by this act), but shall be entered in the minutes, and the entry shall be signed by the secretary of the board. A general regulation shall take effect immediately upon the expiration of the week of publication or posting thereof. An ordinary order shall take effect upon the entry in the minutes.

§ 20. The board may instruct the district attorney of the county to commence and prosecute any and all actions and proceedings necessary or proper to enforce any of its regulations or orders, and may call upon said district attorney for advice as to any sanitary subject; and it shall be the duty of the district attorney to obey such instructions and to give advice when called on by the board therefor. The board may at any time employ special counsel for any purpose. All fines for the violation of any regulation or order of the sanitary board shall, after the expenses of the prosecution are paid therefrom, be paid to the secretary of the board, who shall forthwith deposit the same with the county treasurer, who shall place the same in the running expense fund of the district.

§ 21. The district may at any time be dissolved upon the vote of two-thirds of the qualified electors thereof, upon an election called by the sanitary board upon the question of dissolution. Such election shall be called and conducted in the same manner as other elections of the district. Upon such dissolution, the property of the district shall vest in any incorporated city or town that may at said time be in occupation of a considerable portion of the territory of the district, and if there be no such incorporated city or town, then the property shall be vested in the board of supervisors of the county until the formation of such a city or town; provided, however, that if at the time of such election to dissolve such district there be any outstanding bonded indebtedness of such district, then, in such event, the vote to dissolve such district shall dissolve the same for all purposes excepting only the levy and collection of taxes for the payment of such indebtedness. And from

the time such district is thus dissolved until such bonded indebtedness, with the interest thereon, is fully paid, satisfied, and discharged, the legislative authority of said incorporated city or town, or the board of supervisors, if there be no such incorporated city or town, is hereby constituted ex officio the sanitary board of such district. And it is hereby made obligatory upon such board to levy such taxes and perform such other acts as may be necessary in order to raise money for the payment of such indebtedness and the interest thereon, as herein provided.

§ 22. The sanitary board shall have power at any time after main sewers, or other sewers are laid, to order and contract for the construction of a sewer in any street or part of a street of the district where a sewer is not already constructed, and to provide by such order that the cost thereof shall be borne by the property fronting along the line of the sewer as ordered. Before ordering any work done, or improvement made, which is authorized by this section, the sanitary board shall pass a resolution of intention so to do and describing the work. The secretary of the board shall thereupon cause to be conspicuously posted along the line of said contemplated work or improvement, at not more than three hundred feet in distance apart, but not less than three in all, notices of the passage of said resolution. Said notices shall, in legible characters, state the fact of the passage of the resolution, its date and briefly the work or improvement proposed, and refer to the resolution for further particulars. He shall also cause a notice, similar in substance, to be published for a period of five consecutive days in a daily newspaper published and circulated in said district, and designated by said sanitary board, or by one insertion in a weekly newspaper so published, circulated and designated. If there be no newspaper published and circulated in said district, then and in that case said secretary shall post said notices in three public places in said district in addition to said posting along the line of said work or improvement. Any owner or property fronting upon said proposed work or improvement may make a written objection to the same within fifteen days from and after the first publication of said notice, or from and after the day of the posting of said notice if the same cannot be published as herein provided, which objection shall be delivered to the secretary of the sanitary board, who shall indorse thereon the date of its reception by him. The sanitary board shall, at its next meeting after the time for presentation of objections has expired, fix a time for hearing said objections, not less than one week thereafter. The secretary of the sanitary board shall thereupon notify the person or persons making such objection, by depositing a notice thereof in the United States post-office in said district, or if there be none in said district, then in the one nearest thereto, postage prepaid, addressed to each objector, or his agent, when such objector appears by agent. At the time specified said sanitary board shall hear the objections urged, and pass upon the same, and its decision shall be final and conclusive. Upon such decision or at the expiration of the said fifteen days, if no written objection to the

work therein described has been made as aforesaid by any owner of the property fronting on said work or improvement, the sanitary board shall be deemed to have acquired jurisdiction to order any work to be done, or improvement to be made, authorized by said resolution and this section. After said sanitary board has acquired jurisdiction to do such work and make such improvement, it may order the work done and improvement made, and provide in such order a time for receiving bids, and likewise authorize the president and secretary of the sanitary board to enter into a contract for the performance of said work and making of said improvement. Such order shall be published for a period of five consecutive days in a daily newspaper published and circulated in said district, and designated by said sanitary board, or by its insertion in a weekly newspaper so published, circulated and designated, and in case there be no such newspaper published and circulated in said district, then and in that event such order shall be posted in at least three public places in said district; and at the opening of said bids the board must award the contract to the lowest responsible bidder, or may reject any and all bids and re-advertise for bids and upon the opening of such bids award the contract to the lowest responsible bidder, unless the board is satisfied there is collusion between bidders when it may again reject the bids and again advertise for bids until they are satisfied the bids are fair and not made under collusion or fraud when it must award the contract. And in case such order is made and such contract is let, then the cost of such work and improvement done under such contract shall become a lien upon and shall be assessed against such blocks, lots and lands fronting upon said work and improvement as would be assessable for said work and improvement under the provisions of that certain act entitled "An act to provide for work upon streets, lanes, alleys, courts, places, and sidewalks, and for the construction of sewers within municipalities," approved March eighteenth, eighteen hundred and eighty-five, and acts amendatory and supplemental thereto, and the manner, method and mode of such assessment and collection of such assessment and foreclosure of such lien shall be made in accordance with the provisions of section 6 and subsequent of said act and acts supplemental and amendatory to such provisions; provided, however, that the words "city council" used in said act shall be understood to mean "sanitary board"; the words "superintendent of streets" and "city engineer" shall be understood to mean "the engineer of such sanitary district"; the words "city" and "municipality" shall be understood to mean "sanitary district"; the words "clerk" and "city clerk" shall be understood to mean "secretary of said sanitary board"; the term "treasurer" or "city treasurer" shall be understood to mean any person or officer who shall have charge of and make payment of the funds of such sanitary district; and further provided, that all the powers and duties conferred by the said provisions of said act and acts amendatory and supplemental thereof upon city councils, superintendent[s] of streets, clerks and city clerks, and treasurers and engineers and city engineers are hereby conferred and imposed upon the respective

officers and board above specified. [Amendment approved March 10, 1903. Stats. 1903, p. 121. In effect immediately.]

§ 22 1/2. The boundaries of any sanitary district may be altered, and outlying contiguous territory in the same county as such sanitary district annexed thereto in the manner following:

A petition signed by the owner or owners representing more than one-half of the assessed valuation of such contiguous territory proposed to be annexed as shown by the last equalized assessment-book of the county in which said sanitary district is situated, designating specifically the boundaries of such contiguous territory proposed to be annexed, and the assessed valuation thereof as shown by said last equalized assessment-book, and stating that such territory is not within the limits of any other sanitary district, and asking that such territory be annexed to said sanitary district, shall be presented to the sanitary board thereof.

At their first regular meeting after the presentation of said petition said sanitary board shall take up and consider the same. If such petition is disapproved, such disapproval shall be entered upon the minutes of the board, and no further proceedings shall be taken in regard to such annexation until a new petition is filed. If said petition be approved by said board, such approval shall be entered upon the minutes of said board and indorsed upon said petition, and said petition shall thereupon be transmitted to and filed with the board of supervisors of the county in which such sanitary district is situated. Said board of supervisors, at its next regular meeting after the filing of said petition, shall by order alter the boundaries of said sanitary district and annex thereto the contiguous territory described in said petition. Such order shall be conclusive evidence of the validity of all prior proceedings leading to such annexation and recited in said order, and from and after the same such territory shall become and be a part of such sanitary district.

The property within such territory so annexed shall be taxed, together with the remainder of said district, to pay its proportion of the unpaid bonded or other indebtedness of such sanitary district existing at the time of such annexation incurred for the cost of construction, estimated as hereafter provided, of main sewers already constructed in said district, and also to pay the running expenses of said district. The engineer of such district shall, when required by the sanitary board thereof, estimate the unpaid cost of construction of all main sewers, already constructed in said district at the time of such annexation, and such estimate when approved by the sanitary board shall be final and conclusive and shall be the basis upon which said sanitary board shall tax said annexed territory.

At any time after the annexation of such contiguous territory the sanitary board may, by an order entered in the minutes, call an election within such annexed territory for the purpose of determining whether bonds shall be issued for the construction of sewers therein. Such order shall fix the day of the election and shall specify the amount of money

to be raised, and shall state in general terms the purposes for which it is to be raised. A copy of such order shall be posted for four successive weeks prior to the election in at least three public places within such annexed territory in said district, and shall be published for four successive weeks prior to the election in some newspaper published within the district, if there be one, and if not, in some newspaper published in the county. It shall be sufficient if the order be published once a week.

At any time prior to the day fixed for the election the board shall select one polling-place within said annexed territory, appoint officers of election therein, and make all necessary and proper arrangements for holding the election. The tickets shall contain the words, "For the issuance of bonds as proposed by the sanitary board," or "Against the issuance of bonds as proposed by the sanitary board."

The election shall be conducted in accordance with the general election laws of the state so far as the same shall be practicable, except as herein otherwise provided.

Every qualified elector, resident within such annexed territory for the length of time necessary to enable him to vote at a general election, shall be entitled to vote at the election above provided for.

After the votes shall have been announced the ballots shall be sealed up and delivered to the secretary or president of the sanitary board, which shall, as soon as practicable, proceed to canvass the same, and shall enter the result on its minutes. Such entry shall be conclusive evidence of the fact and regularity of all the prior proceedings of every kind and nature provided by this act or by law, and of the facts stated in such entry, and if at such election two-thirds of the votes cast be in favor of the issuance of bonds as proposed by the sanitary board, the said board shall thenceforth have full power and authority to issue and dispose of bonds as proposed in the order calling the election.

All bonds so issued shall be of such denomination as the sanitary board may determine, except that no bonds shall be of a less denomination than one hundred dollars, nor of a greater denomination than one thousand dollars. Such bonds shall be payable in gold coin of the United States at the office of the county treasurer of the county wherein said district is situated and shall bear interest at a rate not exceeding five per centum per annum, which interest shall be payable semi-annually in like gold coin. Not less than one-twentieth part of the total issue of bonds shall be payable each year on a day to be specified by the sanitary board, but no bond shall be payable in installments, but each bond issued hereunder shall be payable in full on the date specified therefor by said board. Each bond shall be signed by the president and countersigned by the secretary of the sanitary board, and said bonds shall be numbered consecutively beginning with number one, and shall have coupons attached referring to the number of the bond to which they are attached, which coupons shall be signed by the president and countersigned by the secretary of said board.

The bonds must be disposed of by the sanitary board in such manner and in such quantities as may be determined by such board in its discretion, but no bond must be disposed of for less than its face value.

The proceeds of such sale shall be deposited with the county treasurer and shall be by him placed in the fund to be called "The sewer construction fund of annexed territory of — sanitary district" (naming it). The money in such fund shall be used for the purposes indicated in the order calling the election upon the question of the issuance of the bonds, and for no other purpose; provided, that if after such purposes are entirely fulfilled any balance remains in such fund, such balance may by the order of the sanitary board be transferred to the "bond, interest and redemption fund" for the redemption of bonds and the payment of interest thereon, issued under the provisions of this section.

If the result of the election be against the issuance of bonds no other election upon the question shall be called or held for a period of one year.

It is hereby made the duty of the sanitary board to levy each year upon the property within the said annexed territory a sufficient tax to pay off the interest accruing upon said bonds for the respective year as each falls due, and also to pay at least one-twentieth of the principal of said bonds so that the entire amount of the principal and interest of said bonds shall be paid within twenty years from the date of the issuance of said bonds; and it is hereby made the duty of the tax collector, or such other person as may be charged with the duty of collecting the sanitary district taxes, to collect the tax so to be levied, and the duty of the sanitary board to order the same paid in manner and form as provided by this act, and the duty of the county treasurer to pay the same. If, for any reason, any portion of the tax for any year remains unpaid, and in consequence thereof any portion of the interest or principal due for any year remains unpaid, the same shall be added to and levied for the next year, and be collected and paid accordingly.

The payment of the whole amount of the principal and interest of all of said bonds, within twenty years from their issuance, is hereby made the imperative duty of the annexed territory; and, if necessary for that purpose, a special tax shall be levied by the sanitary board on the property situate in said annexed territory; and it is hereby made the duty of every officer and board to do his respective part towards the levy, collection and payment of such tax; and mandamus shall issue from the superior court of the county in which the district is situated, or from any other competent court upon the application of any party interested for the purpose of compelling the performance of the duty imposed by this act upon any and all boards and officers.

If the result of any election upon the question of the issuance of bonds for such annexed territory be in favor of such issuance, the sanitary board may, in their discretion, before such issuance, commence in the superior court of the county a special proceeding to determine their right to issue such bonds and the validity thereof, similar to the proceedings in relation to irrigation bonds provided for by an act entitled, "An act supplemental to 'An act to provide for the organization and government of irrigation districts, and to provide for the acquisition of water and other property, and for the distribution of water thereby

for irrigation purposes,' approved March seventh, eighteen hundred and eighty-seven, and to provide for the examination, approval, and confirmation of proceedings for the issue and sale of bonds issued under the provisions of said act," and all the provisions of said act shall apply to and govern the proceedings so to be commenced by the sanitary board, so far as the same are applicable; and said proceedings shall be in accordance with the provisions of said act so far as the same are applicable, and the judgment in such proceedings shall have the same effect as a judgment in relation to irrigation bonds under the provisions of said act. [Amendment approved March 9, 1909. Stats. 1909, p. 233. In effect immediately.]

§ 23. All acts and parts of acts in conflict with this act, or any portion thereof, are hereby repealed.

§ 24. This act shall take effect immediately.

TITLE 435.

SAN JOAQUIN COUNTY.

ACT 3353.

An act to furnish, grant, convey and relinquish to the United States of America the right of way in San Joaquin County now (or hereafter) obtained by the commissioner of public works under an act of the legislature, approved March 25, 1903, entitled "An act authorizing the commissioner of public works to obtain a right of way for a canal to divert the waters of Mormon Channel into the Calaveras River, to maintain condemnation suits therefor, and making an appropriation to pay for said right of way, and the costs and expenses of obtaining the same," and under the laws of the state of California relating to such matters, for the purpose of the construction and completion of such right of way by the United States of America of a diverting canal east of the city of Stockton from the Mormon Channel to the Calaveras River and along the channel of the Calaveras River to the San Joaquin River, pursuant to an act of Congress of June 13, 1902, and to subsequent acts of Congress relating thereto, and to authorize the commissioner of public works and the governor of the state to execute conveyances thereof, and to authorize and direct the secretary of state to countersign and make delivery of the same to the United States of America. [Approved June 9, 1906. Stats. 1906, p. 13.]

ACT 3354.

Authorizing the construction of certain levees by certain parties [Stats. 1877-78, p. 48.]

ACT 3355.

Protecting certain lands from overflow. [Stats. 1871-72, p. 861.]

ACT 3356.

Providing for the appointment of phonographic reporter in. [Stats. 1871-72, p. 551.]

Repealed by Code of Civil Procedure, §§ 269-274: *People v. Lon Me*, 49 Cal. 858.

ACT 3357.

Concerning certain records of. [Stats. 1857, p. 228.]

This act validated certain records of that county.

ACT 3358.

Roads and highways. [Stats. 1875-76, p. 341.]

Amended 1877-78, p. 1084. Repealed 1883, p. 5, c. X, § 2.

ACT 3359.

Authorizing road districts in, to levy a special tax. [Stats. 1871-72, p. 627.]

Repealed by statute of 1883, p. 5, c. X, § 2.

ACT 3360.

Regulating salaries and fixing compensation of officers of. [Stats. 1871-72, p. 874.]

Repealed 1873-74, p. 578.

ACT 3361.

Regulating salaries and fixing compensation of officers of. [Stats. 1873-74, p. 575.]

Repealed by County Government Acts: See 1897, p. 511, § 164.

ACT 3362.

Shorthand reporter, duties of. [Stats. 1875-76, p. 12.]

Superseded by Code of Civil Procedure, §§ 268 to 274.

ACT 3363.

To encourage destruction of squirrels and gophers in, and to provide a bounty for the same. [Stats. 1877-78, p. 773.]

Superseded by subd. 26, § 25, County Government Act, 1897, p. 465.

ACT 3364.

Supervisors of. [Stats. 1873-74, p. 466.]

Repealed by County Government Acts: See 1897, p. 452.

ACT 3365.

Making county treasurer ex officio tax collector, and the recorder ex officio county auditor. [Stats. 1873-74, p. 692.]

Superseded by County Government Acts: See 1897, p. 452.

ACT 3366.

An act to provide one (1) additional judge of the superior court of the county of San Joaquin, State of California; for the manner of his election and for his compensation. [Approved March 18, 1905. Stats. 1905, p. 100.]

TITLE 436.**SAN JOAQUIN RIVER.****ACT 3370.**

Declaring navigable. [Stats. 1871-72, p. 117.]

Superseded by Political Code, § 2849, as amended 1891, p. 96.

ACT 3371.

Public wharves on, act concerning. [Stats. 1871-72, p. 657.]

TITLE 437.**SAN JOSE.****ACT 3375.**

Charter of San Jose. [Stats. 1897, p. 592.]

Amended 1905, p. 684; 1907, p. 1272.

Citations. Cal. 141/660, 668; 145/247; 153/879, 880. App. 3/235, 236.

ACT 3376.

Act to reincorporate. [Stats. 1871-72, p. 333.]

Repealed 1873-74, p. 419.

Citations. Cal. 141/662, 668.

ACT 3377.

Reincorporating. [Stats. 1873-74, p. 395.]

Amended 1875-76, p. 627; 1877-78, pp. 289, 846; 1891, p. 97. Superseded by the charter of San Jose, 1897, p. 593.

Citations. Cal. 65/859; 66/5; 68/92; 90/89; 92/574; 102/644; 107/188, 191, 193; 141/663.

ACT 3378.

Establishment of board of health in. [Stats. 1877-78, p. 296.]

Superseded by charter, 1897, p. 842.

ACT 3379.

Authorizing to issue bonds to provide for sewerage of said city. [Stats. 1871-72, p. 365.]

Repealed 1873-74, p. 764.

ACT 3380.

Incorporating the fire department of. [Stats. 1869-70, p. 562.]

See charter of that city, 1897, p. 624.

ACT 3381.

Law library in, establishing. [Stats. 1873-74, p. 727.]

See Statute of 1891, p. 480, which, however, does not repeal this act, if a library had been established under or preceding it.

ACT 3382.

Confirming and ratifying acts of mayor and common council of. [Stats. 1877-78, p. 163.]

This act authorized the opening of Market Street through Market Square.

ACT 3383.

Santa Clara Avenue and certain public lands, act concerning. [Stats. 1877-78, p. 290.]

ACT 3384.

Authorizing and empowering the school trustees to erect a high school building. [Stats. 1897, p. 167.]

ACT 3385.

Providing for the opening, widening, and extending of streets in. [Stats. 1877-78, p. 620.]

Probably superseded by the Vrooman Act, 1885, p. 147.

TITLE 438.**SAN JUAN.****ACT 3390.**

Incorporating town of. [Stats. 1869-70, p. 245.]

Superseded by incorporating, in 1896, under the statute of 1888.

TITLE 439.**SAN LEANDRO.****ACT 3395.**

To incorporate. [Stats. 1871-72, p. 458.]

Repealed by revising act, 1878-74, p. 68.

ACT 3396.

Incorporating. [Stats. 1873-74, p. 63.]

Revising act of March 21, 1872, p. 458. Superseded by incorporating, in 1892, under statute of 1888.

TITLE 440.**SAN LUIS OBISPO COUNTY.****ACT 3401.**

Concerning trespassing animals in. [Stats. 1871-72, p. 749.]

The code commissioners (1903) say: "Probably repealed by the stray law of 1897, p. 198; 1901, p. 608."

ACT 3402.

Regulating fees and salaries in. [Stats. 1869-70, p. 437.]
Amended 1871-72, p. 425; 1875-76, p. 912.
See note to Act 1119, ante.

ACT 3403.

Regulating fees of recorder of. [Stats. 1877-78, p. 701.]
Repealed by County Government Acts: See 1897, p. 527, § 176.

ACT 3404.

Fees and compensation of district attorney of. [Stats. 1877-78, p. 451.]
Superseded by County Government Acts: See 1897, p. 527, § 176.

ACT 3405.

Authorizing transcribing of records in. [Stats. 1860, p. 11.]

ACT 3406.

Authorizing the transcribing of certain records in. [Stats. 1871-72, p. 402.]

ACT 3407.

Concerning roads in. [Stats. 1871-72, p. 134.]
Amended 1871-72, p. 690. Repealed 1873-74, p. 80.

ACT 3408.

Providing funds for road purposes of. [Stats. 1875-76, p. 907.]

ACT 3409.

Fixing salaries of certain officers of. [Stats. 1873-74, p. 618.]
"Repealed as to county judges by the constitution of 1879, abolishing the offices, and as to the other offices, by the County Government Acts: See 1897, p. 452."—Code Commissioners' Note.

ACT 3410.

Salaries and compensation of certain officers. [Stats. 1875-76, p. 608.]
Amended 1877-78, p. 128. Repealed by County Government Acts, see 1897, p. 527, § 176.

ACT 3411.

Making the act to abate the squirrel nuisance applicable to. [Stats. 1875-76, p. 637.]

ACT 3412.

Providing for an additional superior judge for. [Stats. 1889, p. 6.]

ACT 3413.

Reducing the number of superior judges in. [Stats. 1889, p. 333.]

ACT 3414.

Supervisors, reorganizing. [Stats. 1875-76, p. 493.]
Amended 1877-78, p. 86. Superseded by County Government Acts: See 1897, p. 452.

TITLE 441.

SAN LUIS OBISPO, TOWN OF.

ACT 3418.

Incorporating. [Stats. 1875-76, p. 361.]

Amended 1877-78, p. 688. Superseded by incorporating, in 1884, under Municipal Corporation Act of 1888.

ACT 3419.

Act reincorporating. [Stats. 1871-72, p. 220.]

Amended 1871-72, p. 484; 1878-74, p. 828. Superseded by incorporating under Municipal Corporation Act of 1888.

ACT 3420.

Issuance of bonds by. [Stats. 1875-76, p. 382.]

ACT 3421.

Substitution of bonds of city of in lieu of bonds of the town of San Luis Obispo. [Stats. 1877-78, p. 237.]

ACT 3422.

Town of, funds for. [Stats. 1873-74, p. 294.]

Superseded by incorporating, in 1884, under Municipal Corporation Act of 1888.

This act authorized the issuance and sale of bonds.

ACT 3423.

In relation to the police judge of. [Stats. 1877-78, p. 946.]

Superseded by incorporation, in 1884, under the Municipal Corporation Act of 1888.

ACT 3424.

Streets and roads. [Stats. 1877-78, p. 701.]

Modified by Political Code, § 2642, abolishing the office of road overseers. Superseded by incorporation, in 1884, under Municipal Corporation Act of 1888.

ACT 3425.

To settle title to lands in the town of. [Stats. 1867-68, p. 245.]

Citations. Cal. 94/182.

TITLE 442.

SAN MATEO COUNTY.

ACT 3430.

Boundary fences and trespass of animals in. [Stats. 1875-76, p. 173.]

As to trespassing of animals, repealed 1897, p. 198.

ACT 3431.

Providing for construction and improvement of highways in. [Stats. 1871-72, p. 297.]

Repealed 1888, p. 5, c. X, § 2.

ACT 3432.

Prescribing duties and providing salaries for certain officers of, etc.
[Stats. 1873-74, p. 479.]

Amended 1878-74, p. 779; 1877-78, p. 583. Modified and probably repealed
by County Government Acts: See 1897, p. 463

ACT 3433.

Pounds in, establishing. [Stats. 1875-76, p. 335.]

Amended 1877-78, p. 823. Repealed by 1897, p. 198, and subd. 14, § 25,
County Government Act, 1897, p. 463.

ACT 3434.

Road overseer in, compensation of. [Stats. 1875-76, p. 31.]

Repealed as to road overseers by Political Code, § 2642.

ACT 3435.

Road overseers, compensation of. [Stats. 1877-78, p. 109.]

Superseded by Political Code, § 2652, as amended in 1891, p. 478, and by
County Government Acts: See 1897, p. 452.

ACT 3436.

Extermination of squirrels. [Stats. 1877-78, p. 218.]

Superseded by subd. 26, § 25, County Government Act, 1897, p. 465.

ACT 3437.

To confer powers upon supervisors of. [Stats. 1877-78, p. 700.]

Repealed 1881, p. 21.

This act authorized the supervisors to transcribe the records of San Francisco and San Mateo counties.

ACT 3438.

Supervisors, additional powers of. [Stats. 1875-76, p. 485.]

Superseded by County Government Acts: See 1897, p. 452.

This act authorized the supervisors to empower the treasurer to appoint a deputy.

ACT 3439.

Transfer of swamp land fund of, to general fund. [Stats. 1875-76,
p. 213.]

Superseded by subd. 18, § 25, County Government Act, 1897, p. 463.

ACT 3440.

To declare certain tide lands public grounds and granting the same to,
in trust for the use of the public. [Stats. 1893, p. 42.]

TITLE 443.
SAN RAFAEL.

ACT 3445.

Incorporating. [Stats. 1873-74, p. 111.]

Amended 1877-78, p. 767. Superseded by incorporating, in 1889, under Municipal Government Act of 1888.

TITLE 444.
SANTA BARBARA CITY.

ACT 3449.

Charter of. [Stats. 1899, p. 448.]

Amended 1905, p. 929; 1909, p. 1149.

Citations. Cal. 140/558, 559; 142/670. App. 6/342, 344.

ACT 3450.

Incorporating. [Stats. 1873-74, p. 330.]

Amended 1875-76, p. 285; 1877-78, p. 776. Last act repealed 1887, p. 108.

Superseded by the charter of Santa Barbara, 1899, p. 450.

ACT 3451.

Additional powers of common council. [Stats. 1877-78, p. 292.]

Superseded by charter 1899, p. 448.

ACT 3452.

Legalizing proceedings of trustees of. [Stats. 1865-66, p. 638.]

ACT 3453.

Legalizing grants of lands in. [Stats. 1861, p. 371.]

Supplemented 1862, p. 495. Amended 1863, p. 47.

This act legalized grants made by the Ayuntamiento.

ACT 3454.

To legalize and confirm certain grants and sales of town lands by the board of trustees and the mayor and common council of the city of Santa Barbara, made since the passage of the act of March 31, 1866. [Stats. 1869-70, p. 666.]

ACT 3455.

Confirming conveyances made to Santa Barbara Cemetery Association.
[Stats. 1875-76, p. 572.]

ACT 3456.

Ratifying ordinance 47 and ordinance 48, passed by common council of.
[Stats. 1875-76, p. 282.]

These ordinances related to certain city blocks and certain plazas.

ACT 3457.

Laying out, opening, and improving streets in. [Stats. 1877-78, p. 777.]

"Unconstitutional. (Boorman v. Santa Barbara, 65 Cal. 318.) Superseded by Vrooman Act, 1885, p. 147, and by the charter of Santa Barbara, 1899, p. 450."—Code Commissioners' Note.

Citations. Cal. 65/314; 72/416.

TITLE 445.**SANTA BARBARA COUNTY.****ACT 3462.**

Concerning trespassing animals in. [Stats. 1871-72, p. 749.]

Repealed by estray law of 1897, p. 198. See, also, Stats. 1901, p. 608.

ACT 3463.

Concerning conveyances in. [Stats. 1873-74, p. 61.]

This act validated a deed acknowledged and recorded by C. E. Cook, formerly county clerk and ex officio county recorder.

ACT 3464.

County clerk of. [Stats. 1875-76, p. 212.]

Repealed by County Government Acts: See 1897, p. 531, § 179.

ACT 3465.

Fixing salaries of certain officers. [Stats. 1873-74, p. 618.]

"Repealed as to county judges by the constitution of 1879, and as to other officers by the County Government Acts: See 1897, p. 452."—Code Commissioners' Note.

ACT 3466.

Concerning roads in. [Stats. 1871-72, p. 134.]

Amended 1871-72, p. 690. Repealed 1878-74, p. 80.

ACT 3467.

Creating special road district in, and providing road fund. [Stats. 1875-76, p. 494.]

Repealed 1877-78, p. 108.

ACT 3468.

To provide for the extermination of squirrels in. [Stats. 1877-78, p. 787.]

Repealed 1880, p. 7.

ACT 3469.

Legalizing all proceedings of. [Stats. 1871-72, p. 78.]

Citations. Cal. 52/157.

TITLE 446.**SANTA CLARA CITY.****ACT 3473.**

Act to reincorporate. [Stats. 1871-72, p. 251.]

Amended and sections added, 1878-74, p. 591.

Citations. Cal. 148/554.

ACT 3474.

Authorizing corporate authorities to take and hold in trust certain lands. [Stats. 1871-72, p. 306.]

This act had reference to certain lands granted by Congress to the town of Santa Clara for the benefit of the bona fide occupants.

TITLE 447.**SANTA CLARA COUNTY.****ACT 3479.**

To provide for the construction and protection of the Alameda road in. [Stats. 1871-72, p. 367.]

ACT 3480.

Artesian wells in, act to regulate use of, and to prevent waste of water. [Stats. 1875-76, p. 331.]

Repealed 1877-78, p. 196.

ACT 3481.

Defining duties of county assessor of. [Stats. 1871-72, p. 534.]

See §§ 148 and 162 of the County Government Act, 1897, pp. 491, 507.

This act made the assessor the collector of poll taxes.

ACT 3482.

Auditor, seal of office. [Stats. 1873-74, p. 600.]

ACT 3483.

Authorizing supervisors to pay certain moneys to county clerk and auditor. [Stats. 1871-72, p. 859.]

Repealed by County Government Act, 1897, p. 452.

ACT 3484.

Coroner of. [Stats. 1877-78, p. 426.]

Repealed by County Government Acts: See 1897, p. 506, § 161.

ACT 3485.

Regulating fees of county clerk. [Stats. 1871-72, p. 212.]

Amended 1875-76, p. 402. Repealed by fee bill, 1895, p. 267. (Miller v. Curry, 113 Cal. 644.)

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ACT 3486.

Firemen of, exemption from payment of poll taxes. [Stats. 1873-74, p. 825.]

"Probably superseded by County Government Acts: See 1897, p. 452, and constitution of 1879, § 12, art. XIII."—Code Commissioners' Note.

ACT 3487.

To increase the number of judges of the superior court, and to provide for the appointment of an additional judge. [Stats. 1897, p. 7.]

ACT 3488.

Fees and salaries of officers of. [Stats. 1873-74, p. 610.]

Repealed by County Government Acts: See 1897, p. 506, § 161.

ACT 3489.

Fees and salaries of officers of. [Stats. 1875-76, p. 35.]

Amended 1875-76, p. 363; 1877-78, p. 288.

"Repealed as to salaries by County Government Act: See 1897, p. 506, § 161; and as to fees by the fee bill of 1895, p. 267, as to the officers therein provided for."—Code Commissioners' Note.

ACT 3490.

Recorder of, fees of. [Stats. 1873-74, p. 230.]

Repealed by the fee bill of 1895, p. 267.

ACT 3491.

Legalizing certain records of. [Stats. 1861, p. 507.]

ACT 3492.

Concerning Spanish records in. [Stats. 1863, p. 11.]

This act authorized the translation into English of the Spanish records.

ACT 3493.

Concerning the county records of. [Stats. 1869-70, p. 779.]

This act provided for the transcribing of the records.

ACT 3494.

Complete records in, providing for the keeping of. [Stats. 1873-74, p. 231.]

Superseded by County Government Act, 1897, p. 484, §§ 120, 121, as to recorders only.

ACT 3495.

Roads and highways. [Stats. 1873-74, p. 453.]

Amended 1875-76, pp. 167, 606.

"Unconstitutional as to condemnation proceedings. (Weber v. Santa Clara, 59 Cal. 265.) Repealed 1888, p. 5, c. X, § 2."—Code Commissioners' Note.

ACT 3496.

Public roads in, protection of. [Stats. 1875-76, p. 250.]

Repealed 1877-78, p. 298.

ACT 3497.

Providing for opening of Santa Clara and Saratoga avenues. [Stats. 1871-72, p. 415.]

Repealed 1878-74, p. 556. Unconstitutional: Williams v. Corcoran, 46 Cal. 558.

Citations. Cal. 46/555.

ACT 3498.

Santa Clara Avenue, providing for opening and improving. [Stats. 1871-72, p. 370.]

Amended 1878-74, p. 588. Repealed 1877-78, p. 291.

Citations. Cal. 141/662, 663.

ACT 3499.

Concerning streams in. [Stats. 1871-72, p. 652.]

Amended 1877-78, p. 298. Superseded by subd. 41, § 25, and by § 52, County Government Act, 1897, pp. 467, 478.

This act gave the supervisors certain powers over innavigable streams.

TITLE 448.**SANTA CRUZ CITY.****ACT 3504.**

Reincorporating. [Stats. 1875-76, p. 189.]

Supplemented 1877-78, p. 870.

Citations. Cal. 60/68, 69.

ACT 3505.

To incorporate, amending and supplementing act of March 31, 1866. [Stats. 1871-72, p. 471.]

Superseded 1875-76, p. 189.

ACT 3506.

Isaac E. Davis and Henry Cowell authorized to lay water pipes in. [Stats. 1873-74, p. 229.]

TITLE 449.**SANTA CRUZ COUNTY.****ACT 3511.**

To provide a sufficient number of deputies for the county assessor of. [Stats. 1877-78, p. 958.]

Repealed by County Government Acts: See 1897, p. 452.

ACT 3512.

In relation to office of district attorney of. [Stats. 1871-72, p. 440.]
Repealed by County Government Act, 1897, p. 523, § 173.

ACT 3513.

Fees and salaries of officers of. [Stats. 1875-76, p. 576.]
Repealed by County Government Acts: See 1897, p. 523, § 172.

ACT 3514.

Juries in justices' courts and witnesses in courts of record. [Stats. 1877-78, p. 564.]
Repealed by fee bill of 1895, p. 273.

ACT 3515.

Public and private roads in. [Stats. 1875-76, p. 611.]
Repealed 1888, p. 5, c. X, § 2.

ACT 3516.

Authorizing condemnation of lands for road purposes. [Stats. 1871-72, p. 397.]
"Probably superseded by the provisions of subds. 4, 7, and 87 of § 25, County Government Act, 1897, p. 457."—Code Commissioners' Note.

ACT 3517.

To regulate fees of sheriff. [Stats. 1871-72, p. 331.]
Repealed by fee bill, 1895, p. 269.

ACT 3518.

Supervisors, duties and salaries of. [Stats. 1877-78, p. 155.]
Repealed by County Government Acts: See 1897, p. 452.

ACT 3519.

Supervisors, change of line of Santa Cruz Railroad Company. [Stats. 1875-76, p. 725.]

ACT 3520.

County surveyor of. [Stats. 1875-76, p. 34.]
This act fixed the fees and compensation of the surveyor.

TITLE 450.**SANTA MONICA.****ACT 3525.**

Seagulls, protection of. [Stats. 1875-76, p. 287.]
This act prohibited the killing of gulls within five miles of the town.
Codified by § 599, Penal Code: See Penal Code, § 599, note.

TITLE 451.

SANTA ROSA.

ACT 3529.

Charter of. [Stats. 1903, p. 703.]

A new charter was adopted in 1905. Stats. 1905, p. 867.

Citations. Cal. 142/801.

ACT 3530.

Reincorporating. [Stats. 1871-72, p. 628.]

Amended 1873-74, p. 378. Entire act amended 1875-76, p. 251.

Citations. Cal. 138/152.

ACT 3531.

Reincorporating. [Stats. 1875-76, p. 251.]

Citations. Cal. 102/427; 125/121; 126/849; 138/152.

ACT 3532.

Altering and defining limits of. [Stats. 1869-70, p. 473.]

ACT 3533.

Board of education of, powers and duties of, establishing and defining
[Stats. 1875-76, p. 514.]

SCHOOL LANDS.

See "Public Lands," ante.

SCHOOL OF INDUSTRY.

See "Preston School of Industry," ante.

SCHOOL OF REFORM.

See "Whittier State School," post.

TITLE 452.

SCHOOLS.

ACT 3534.

An act to provide for certain improvements and repairs to the State Normal School at San Jose and making an appropriation therefor. [Approved June 14, 1906. Stats. 1906, p. 28.]

Twenty-nine thousand dollars was appropriated for the purposes indicated.

ACT 3535.

An act to provide for the purchase of a site, for the erection, equipment, and furnishing of a building or buildings, and for the improvement of grounds, for the use of the San Francisco State Normal School; and making an appropriation therefor. [Approved March 3, 1905. Stats. 1905, p. 38.]

ACT 3536.

An act to provide for the registration of bonds issued by common school, high school, or union high school districts.

[Approved March 18, 1905. Stats. 1905, p. 123.]

§ 1. Whenever the owner of any coupon bond, or if any bond payable to bearer, already issued or hereafter issued by any common school, high school, or union high school districts now or hereafter existing in this state, shall present any such bond to the treasurer or other officer of the county in which said district is located, who by law performs the duties of treasurer, with a request for the conversion of such bond into a registered bond, such treasurer, or such other officer, shall cut off and cancel the coupons of any such coupon bond so presented, and shall stamp, print or write, upon such coupon bond, or such other bond payable to bearer, so presented, either upon the back or upon the face thereof, as may be convenient, a statement to the effect that the said bond is registered in the name of the owner, and that thereafter the interest and principal of said bond are payable to the registered owner. Thereafter, and from time to time any such bond may be transferred by such registered owner in person, or by attorney duly authorized on presentation of such bond to such treasurer, or such other officer, and the bond be again registered as before, a similar statement being stamped, printed, or written thereon. Such statement stamped, printed, or written upon such bond may be in substantially the following form:

(Date, giving, month, year, and day.)

This bond is registered pursuant to the statute in such cases made and provided in the name of — (here insert name of owner) and the interest and principal thereof are hereafter payable to such owner.

Treasurer (or such other officer).

After any bond shall have been registered as aforesaid, the principal and interest of such bond shall be payable to the registered owner. Such treasurer or such other officer, shall keep in his office a book or books which shall at all times show what bonds are registered and in whose names respectively.

§ 2. Whenever under any statute or law of this state any bonds are issued, whether the proceedings for the issuance of such bonds have been had in whole or in part prior to the enactment of this statute, or whether the same have been had in whole or in part after the enactment of this statute, such bonds may be issued either in the form of coupon bonds, or in the form of registered bonds, or some in the form of coupon bonds, and some in the form of registered bonds, as has been or hereafter may be provided in the proceedings for the issuance of such bonds, and notwithstanding any language or provision to the contrary contained in any such statute authorizing the issuance of the bonds, or in any other law of the state. The provisions of section 1 of this act shall apply to

coupon bonds, so issued, as well as to other coupon bonds, or other bonds payable to bearer.

ACT 3537.

An act confirming the organization of school districts.

[Approved March 18, 1905. Stats. 1905, p. 243.]

§ 1. All school districts in this state that for a period of five (5) years have been acting as school districts under the laws of this state, are hereby declared to be duly incorporated and to be bodies politic under the laws of this state, and as such school districts, under their appropriate names, shall have all the rights and privileges and be subjected to all of the duties and obligations of duly incorporated school districts.

§ 2. This act shall take effect immediately.

ACT 3538.

Putah school district and Yolo school district, union of. [Stats. 1873-74, p. 350.]

ACT 3539.

Siskiyou, Modoc, and Sonoma counties, apportioning school moneys in, manner of. [Stats. 1873-74, p. 896.]

Amended 1875-76, p. 33. Superseded by Political Code, §§ 1543, 1858.

ACT 3540.

Wood's Island, in Sacramento County, annexed to Rio Vista school district in Solano County, for school purposes. [Stats. 1875-76, p. 32.]

ACT 3541.

Grass Valley school district, board of education, establishing and defining powers of. [Stats. 1875-76, p. 233.]

ACT 3542.

School moneys, distribution of in certain counties. [Stats. 1875-76, p. 332.]

This act related to Fresno, Contra Costa, Shasta, and Lassen counties. Repealed as to Fresno County, 1877-78, p. 782. Repealed as to Contra Costa County, 1877-78, p. 182. Superseded by Political Code, § 1858.

ACT 3543.

Consolidating Rattlesnake school district with Wild Goose school district, in El Dorado County. [Stats. 1875-76, p. 801.]

ACT 3544.

Millville school district, Shasta County, an act concerning census of. [Stats. 1875-76, p. 817.]

Superseded by Political Code, § 1617, subd. 16, and § 1634.

ACT 3545.

Setting off southwestern portion of Sutter Island, in Sacramento County, from Onisbo school district, to Slough school district for school purposes. [Stats. 1877-78, p. 591.]

ACT 3546.

Scott's Valley school district, Siskiyou County, authorizing trustees of to borrow money for school purposes. [Stats. 1877-78, p. 593.]

ACT 3547.

Courthouse school district, Sonoma County, to re-establish. [Stats. 1877-78, p. 752.]

ACT 3548.

To attach a portion of Kings River Switch school district to Kingsbury school district, in Fresno County. [Stats. 1877-78, p. 1010.]

ACT 3549.

For the establishment of high schools. [Stats. 1891, p. 182.]

Citations. Cal. 101/656; 102/470; 112/317; 124/696, 697; 129/602; 140/557, 558, 559, 560, 561.

Unconstitutional: McCabe v. Carpenter, 102 Cal. 469. Repealed 1893, p. 276.

ACT 3550.

Legalizing the establishment of high schools in incorporated cities, and providing for the maintenance and support of such schools. [Stats. 1901, p. 299.]

Citations. Cal. 152/519.

ACT 3551.

To authorize the establishment of county high schools, and provide for their support. [Stats. 1891, p. 57.]

Repealed 1893, p. 276.

ACT 3552.

An act relative to the meeting-place of high school boards within municipal corporations. [Became a law under constitutional provision without governor's approval, March 15, 1901. Stats. 1901, p. 296.]

Repealed 1909, p. 473.

ACT 3553.

An act creating a fund for the benefit and support of high schools and providing for its distribution, and repealing an act entitled "An act creating a fund for the benefit and support of high schools, and providing for its distribution," approved March 2, 1903. [Approved March 6, 1905. Stats. 1905, p. 58.]

Amended 1906, p. 41. Repealed 1909, p. 473.

Citations. Cal. 152/516, 517, 518, 520, 521, 522.

Former statute: See Stats. 1903, p. 64, repealed by above act of 1905, p. 53.

ACT 3554.

Establishing a branch state normal school. [Stats. 1881, p. 89.]

This act established a branch in Los Angeles County.

ACT 3554a.

An act to authorize and empower the board of trustees of the state normal school at Los Angeles to sell and convey the lands and buildings of said school, and from the proceeds of said sale to purchase and improve a new and suitable site for said school; to erect and construct upon the site so purchased buildings and other structures and improvements necessary and proper for said school; to purchase furniture, fixtures, apparatus, and other things necessary for said school, and to rent such temporary buildings and grounds as may be necessary for the use of said school until the completion of the new school buildings. [Approved March 4, 1907. Stats. 1907, p. 101.]

ACT 3555.

To establish a branch state normal school in northern California. [Stats. 1887, p. 60.]

This act provided for a normal school somewhere north of Marysville.

ACT 3556.

Establishing a state normal school in San Diego County. [Stats. 1897, p. 114.]

ACT 3557.

To establish a state normal school in San Francisco. [Stats. 1899, p. 177.]

ACT 3558.

To authorize and empower the trustees of the state normal school at San Jose to reconvey to the city of San Jose a parcel of land situate in said city and belonging to the state of California, to the said city of San Jose, for the purpose of erecting and maintaining a free public library upon said parcel of land. [Approved March 23, 1901. Stats. 1901, p. 575.]

ACT 3559.

Text-books in public schools, preventing change in. [Stats. 1875-76, p. 1.]

Repealed 1880, p. 42, and by § 7, art. IX, of the constitution: People v. Board of Education, 55 Cal. 331.

ACT 3560.

To provide for the care and security of the state series of school text-books, by the erection of a fire-proof warehouse to be used for the storage of the same, authorizing the appointment of a storekeeper to have the care and custody of said text-books, and appropriating money to pay the expenses of erecting said warehouse. [Approved March 15, 1887. Stats. 1887, p. 131.]

Ten thousand dollars was appropriated for the purposes indicated.

ACT 3561.

An act to provide for compiling, illustrating, electrotyping, printing, binding, copyrighting, and distributing certain books of a state series of school text-books, and appropriating money therefor.

[Approved March 15, 1887. Stats. 1887, p. 139.]

See post, Act 3562.

Defining additional books for compilation.

§ 1. In addition to the books directed to be compiled for use in the common schools of the state by section 1 of the act entitled An act to provide for compiling, illustrating, electrotyping, printing, binding, copyrighting, and distributing a state series of school text-books, and appropriating money therefor, approved February twenty-six, eighteen hundred and eighty-five, the state board of education shall compile, or cause to be compiled the following described text-books, viz.: One (1) elementary arithmetic; one (1) elementary grammar, or language lessons; one (1) elementary geography; one (1) physiology and hygiene, including a system of gymnastic exercises; and special instructions as to the nature of alcoholic drinks and narcotics, and their effects upon the human system; and the sum of fifteen thousand dollars, in addition to the unexpended balance of the sum appropriated by section 8 of said act aforesaid, is hereby appropriated out of any money in the state treasury not otherwise appropriated, for the purpose of compiling, or causing to be compiled, the text-books hereinbefore enumerated, together with those enumerated in section 1 of said act aforesaid, and still remaining to be compiled. The appropriation provided for in this section shall be subject to the order of the state board of education; provided, that all demands against said appropriation shall first be approved by said state board of education, and presented to the state board of examiners, in itemized form, for their approval; and upon the approval of the state board of examiners, the controller is hereby authorized to draw his warrant upon the state treasurer for the payment of said demands, and the state treasurer is authorized to pay the same.

Remuneration for compiling books.

§ 2. The state board of education shall employ well-qualified persons to compile the books mentioned in section 1 of this act, and shall fix the remuneration for the services thus rendered; provided, that if competent authors shall compile any one or more works of the first order of excellence, and shall offer the same as a free gift to the people of the state, together with the copyright of the same, and the exclusive right to manufacture and sell such works within the state of California, it shall be the duty of the state board of education to accept such gift, and to expend no money for the purpose of compiling works relating to the subjects treated of in the books thus donated. The state board of education shall furnish to the superintendent of state printing designs for all cuts and engravings to be used in the said series of text-books.

Supervision of superintendent of state printing.

§ 3. The printing of all the text-books provided for in section 1 of this act, and all the mechanical work connected therewith, shall be done by and under the supervision of the superintendent of state printing, at the state printing office; provided, that the purchase of paper for the school books, and the cardboards, cloth, and leather for covers, shall be procured by advertising for proposals to furnish the same in the manner now provided for by section 532 of the Political Code, relating to paper supplies for the state printing office; and provided further, that all folding, stitching, binding, and ruling shall be done in the state bindery; but the accounts of the school book binding shall be kept separate from those of all other binding. The sum of one hundred and sixty-five thousand dollars, in addition to the unexpended balance of the sum appropriated by section 9 of said act aforesaid, approved February twenty-sixth, eighteen hundred and eighty-five, seven thousand five hundred dollars of which shall be available during the present fiscal year, is hereby appropriated out of any money in the state treasury not otherwise appropriated, to purchase the necessary machinery, and to properly maintain the same, and to purchase such type and other materials as may be required in the manufacture of the text-books provided for in section 1 of this act, together with those enumerated in section 1 of said act aforesaid, approved February twenty-sixth, eighteen hundred and eighty-five, and remaining to be manufactured, as well as to pay the salaries or wages of the compositors, binders, and other persons to be employed in such manufacture; provided, that the state board of education shall first approve the style of printing, engravings, and illustrations, kind of paper, size, and binding of volumes; said sum to be drawn by the superintendent of state printing in the same manner as provided in subdivision 4 of section 526 of the Political Code.

Secure copyrights.

§ 4. The state board of education shall secure copyrights to all the books that shall be compiled under the provisions of this act, and shall protect said copyrights from all infringement.

Moneys received kept in state treasury.

§ 5. All moneys that have been received or may hereafter be received from the state series of school text-books shall be kept by the state treasurer as a separate and distinct fund, to be known as the "State School Book Fund," which said fund shall be subject to the following drafts, viz.: By the superintendent of state printing for all moneys needed for manufacturing any editions of any book of the state series, over and above the first fifty thousand copies manufactured of such book, the same to be drawn as provided in subdivision 4 of section 526 of the Political Code; provided, that all demands on the state school book fund shall be presented to the state board of examiners in itemized form, for their approval; and upon the approval of the state board of examiners, the controller is hereby authorized to draw his war-

rant upon the state treasurer for the payment of said demands, and the state treasurer is authorized to pay the same.

§ 6. This act shall take effect from and after its passage.

ACT 3562.

An act to provide for compiling, illustrating, electrotyping, printing, binding, copyrighting, and distributing an elementary book on civil government, for the state series of school text-books.

[Approved March 19, 1889. Stats. 1889, p. 327.]

Compiling, etc., books on civil government of the United States.

§ 1. The state board of education shall compile, or cause to be compiled, the following described text-book for use in the common schools of the state, viz.: One (1) elementary book on the civil government of the United States, with a special analysis of the government of the state of California.

Printing of.

§ 2. The printing of said elementary book on civil government, provided for in section 1 of this act, shall be done by and under the supervision of the superintendent of state printing, subject to the provisions of section 3 of an act entitled An act to provide for compiling, illustrating, electrotyping, printing, binding, copyrighting, and distributing certain books of a state series of school text-books, and appropriating money therefor, approved March fifteenth, eighteen hundred and eighty-seven.

§ 3. This act shall take effect from and after its passage.

ACT 3563.

An act to provide for compiling, illustrating, electrotyping, printing, binding, copyrighting, and distributing a state series of school text-books, and appropriating money therefor.

[Approved February 26, 1885. Stats. 1885, p. 6.]

Amended 1887, p. 145; 1891, p. 452.

See ante, Act 3561.

Series of school books.

§ 1. The state board of education shall compile, or cause to be compiled, for use in the common schools of the state, a series of school text-books of the following description, viz.: Three (3) readers, one (1) speller, one (1) arithmetic, one (1) grammar, one (1) history of the United States, and one (1) geography. The matter contained in the readers shall consist of lessons commencing with the simplest expressions of the language, and, by a regular gradation, advancing to and including the highest styles of composition, both in prose and poetry.

Compilers of same.

§ 2. The state board of education shall employ well-qualified persons to compile the books mentioned in section 1 of this act, and shall fix

the remuneration for the services thus rendered; provided, that if competent authors shall compile any one or more works of the first order of excellence, and shall offer the same as a free gift to the people of the state, together with the copyright of the same, and the exclusive right to manufacture and sell such works within the state of California, it shall be the duty of the state board of education to accept such gift, and to expend no money for the purpose of compiling works relating to the subjects treated of in the books thus donated. The state board of education shall furnish to the superintendent of state printing designs for all cuts and engravings to be used in the said series of text-books.

Printing and binding.

§ 3. The printing of all the text-books provided for in section 1 of this act, and all the mechanical work connected therewith, shall be done by and under the supervision of the superintendent of state printing at the state printing-office; provided, that the purchase of paper for the school books, and the cardboards, cloth, and leather for covers, shall be procured by advertising for proposals to furnish the same, in the manner now provided for by section 532 of the Political Code, relating to paper supplies for the state printing-office; and provided further, that when the state has its bindery in operation, all folding, stitching, binding, and ruling of the state shall be done in the state bindery; but the accounts of the school book binding shall be kept separate from those of all other binding.

Copyrights.

§ 4. The state board of education shall secure copyrights to all the books that shall be compiled under the provisions of this act, and shall protect said copyrights from all infringement.

Order of uniform use.

§ 5. Whenever any one or more of the state series of school text-books shall have been compiled and adopted, the state board of education shall issue an order requiring the uniform use of said book or books in the common schools of the state; but said order for the uniform use of said book or books shall not take effect till the expiration of at least one year from the time of the completion of the electrotype plates of said book or books, and thereafter such book or books shall be used in all the common schools of this state; and no school board or other school authority in this state shall have the power to authorize the use of, nor shall any common school in this state use any books as text-books for pupils other than those directed to be used by the order aforesaid of such state board, except books on such subjects as are not provided for by text-books published by the state. Nothing in this act shall be construed to prevent any county or school district from adopting any one or more of the state series of school text-books whenever said book or books shall have been published. The superintendent of public instruction must withhold from any city, city and county, county, or from any school district in this state using school books in violation of the provisions of this act and section all state school

moneys to which it may be entitled, until it comply with the requirements of this section; and any moneys so withheld must be apportioned by the superintendent at the next annual apportionment in the same manner as other school moneys in the treasury. [Amendment approved March 31, 1891. Stats. 1891, p. 453.]

Text-books, how obtained.

§ 6. All orders for text-books shall be made on the superintendent of public instruction, and shall be accompanied by cash, in payment for the same, at the price fixed by the state board of education as the cost price at Sacramento; provided, that if the books are to be shipped by mail, the cost of postage shall also accompany the order. The following persons shall be entitled to order books:

1. County superintendents of schools, for the use of teachers, parents, and pupils in their counties only.

2. Principals of state normal schools, for their own and for the use of the pupils in their respective schools only.

3. The secretary or clerk of any school district in the state, whether incorporated or operating under the general law of the state, for the use of the pupils in such district only; but no books ordered by the county superintendents, or clerks of district boards of trustees, or principals of state normal schools, shall be sold at a price exceeding the cost price at Sacramento, with the actual cost of freight and cartage added.

4. Any retail dealer who shall first transmit to the state superintendent of public instruction an affidavit, duly subscribed by him, in substance as follows, to wit:

"In consideration of receiving for sale, upon the inclosed or upon any further order, the series of school text-books, or any part thereof, published by the state of California, I hereby agree that I will not sell the same to any person or persons for the purpose of being sold again, or to any person or persons beyond the limits of the state of California; and that I will not sell said series of text-books or any part or portion thereof, at a price exceeding the price to the pupil fixed by the state board of education."

Said affidavit shall be indorsed by the county superintendent in the following words, viz:

"I hereby certify that (A B) is a regular retail dealer in school books in — county. C D, county superintendent."

It shall be the duty of the state superintendent of public instruction to furnish, at once to each county superintendent, for the use of any dealer in his county who may apply for permission to sell the books of the state series, printed copies of the above affidavit, together with the list of prices of such books fixed as the cost price at Sacramento, and the price to the pupil; and any dealer who shall fail to comply with the conditions of such affidavit shall forfeit his right to any further purchase of said books from the state. And it shall be the duty of the superintendent of public instruction to report to the state controller, on or before the fifth day of every month, the number of books sold

by him during the preceding month, and pay the moneys received for the same into the state treasury. It shall also be the duty of the superintendent of state printing, on or before the fifth day of every month, to report to the state controller the number and value of the books shipped by him on the order of the state superintendent of public instruction, and the number and value of the finished books on hand. [Amendment approved March 15, 1887. Stats. 1887, p. 145. In effect immediately.]

Duties of board of supervisors.

§ 7. It shall be the duty of the boards of supervisors of the counties or cities and counties in this state to provide a revolving fund, for the purpose of enabling the county school superintendents to purchase the state text-books; all moneys to be taken therefrom to be replaced by the moneys received from the sale of said books to the scholars of the public schools of his county, either by himself or by the teachers of the public schools, or the clerks of boards of district trustees. [Amendment approved March 15, 1887. Stats. 1887, p. 146. In effect immediately.]

Appropriation for compilations.

§ 8. The sum of twenty thousand dollars is hereby appropriated, out of any money in the state treasury not otherwise appropriated, for the purpose of compiling, or causing to be compiled, the series of text-books for the common schools, as set forth in section 1 of this act. The appropriation provided for in this section shall be subject to the order of the state board of education; provided, that all demands against said appropriation shall first be approved by said state board of education and presented to the state board of examiners in itemized form for their approval, and upon the approval of the state board of examiners, the controller is hereby authorized to draw his warrant upon the state treasurer for the payment of said demands, and the state treasurer is authorized to pay the same.

Appropriation for presses, type, etc.

§ 9. The sum of one hundred and fifty thousand dollars is hereby appropriated out of any money in the state treasury not otherwise appropriated, to purchase the necessary machinery, presses, types, bindery, electrotyping apparatus, and such other material as may be required in the manufacture of the text-books provided for in section 1 of this act, as well as to pay the salaries or wages of the compositors, binders, and other persons to be employed in such manufacture; provided, that the state board of education shall first approve the style of printing, engravings, and illustrations, kind of paper, size, and binding of volumes; said sum to be drawn by the superintendent of state printing in the same manner as provided in subdivision 4 of section 526 of the Political Code.

Furnished at cost of printing.

§ 10. All school books compiled by the state shall be furnished to the public school children of the state at the cost of printing, publishing,

and distributing the same; said cost to be ascertained and fixed by the state board of education, on or before the fifteenth day of June of each school year; and it is further enacted, that the cost of distribution shall be taken to be the cost of postage required for mailing each book. [Amendment approved March 15, 1887. Stats. 1887, p. 146. In effect immediately.]

§ 11. All acts or parts of acts in conflict with the provisions of this act are hereby repealed.

§ 12. This act shall take effect immediately.

Superintendent of public instruction to employ assistance.

§ 4. The superintendent of public instruction is hereby authorized to employ assistance necessary to the carrying out of the provisions of this act. And the controller is hereby directed and authorized to draw his warrants for a sum not exceeding two thousand dollars annually, on the general fund of the state, for the payment of such assistance. [Amendment approved March 15, 1887. Stats. 1887, p. 146. In effect immediately.]

The amendatory act added this new section at the end, but did not give it a new number. This number is the amendment section number.

ACT 3564.

An act to provide for the revision of certain books of the state series of school text-books, for the compilation of an additional book of said series, and for the continued publication of the same; and to authorize and direct the use, for these purposes, of the money accumulated in the state school book fund.

[Approved March 9, 1893. Stats. 1893, p. 85.]

§ 1. The state board of education is hereby authorized and directed to revise the following books of the state series of school text-books, viz.: The first, second, and third readers, the English grammar, the United States history, and the advanced arithmetic, and to compile a primary history of the United States; and in such revision and compilation may employ well-qualified persons to assist them; provided, that in revising said readers the board may cause them to be issued in a series of five books or less, in their discretion; and the board shall furnish to the superintendent of state printing designs for all cuts and engravings to be used in the books revised and compiled under the provisions of this section.

§ 2. All indebtedness incurred by said board in carrying out the provisions of section 1 of this act shall be paid out of the money accumulated in the state school book fund from the sale of the state series of school text-books; provided, that all demands on account of such indebtedness shall first be approved by said state board of education, and presented to the state board of examiners, in itemized form, for their ap-

proval, and upon the approval thereof by the state board of examiners the controller is hereby authorized to draw his warrant upon the state treasurer for the payment of said demands, and the state treasurer is authorized to pay the same; provided further, that the indebtedness incurred by said board in carrying out the provisions of section 1 of this act shall not exceed the sum of twenty-five thousand dollars (\$25,000), which sum is hereby appropriated from the state school book fund for the use of the said board in the premises.

§ 3. The state board of education shall secure copyrights to all the books that shall be revised or compiled, as the case may be, under the provisions of this act, and shall protect said copyrights from all infringement.

§ 4. Whenever any one or more of the state series of school text-books shall have been revised or compiled, the state board of education shall issue an order requiring the uniform use of said book or books in the common schools of the state; but said order for the uniform use of said book or books shall not take effect till the expiration of at least one year from the time of the completion of the electrotype plates of said book or books. Nothing in this act shall be construed to prevent any county, city, city and county, or school district from using any one or more of the state series of school text-books provided for in this act, whenever said book or books shall have been published.

§ 5. The printing and binding of all text-books, specified in section 1 of this act, and all the mechanical work connected therewith, shall be done by and under the supervision of the superintendent of state printing, at the state printing-office; provided, that the purchase of paper for the school books, and the binder's boards, cloths, and leather for covers, shall be procured by advertising for proposals to furnish the same, in the manner now provided for by section 532 of the Political Code, relating to paper supplies for the state printing office.

§ 6. Whenever the appropriations heretofore made from the general fund to the use of the superintendent of state printing for the manufacture of books of the state series of school text-books is exhausted, all indebtedness incurred for the further manufacture of said books shall be paid from the state school book fund, together with all indebtedness incurred for the purchase and proper maintenance of such necessary machinery as may be required in the manufacture of said books, and to purchase such type and other materials as may be required for the same; provided, that all demands on the state school book fund, for the purposes enumerated in this section, shall be presented to the state board of examiners, in itemized form, for their approval; and upon the approval of the state board of examiners, the controller is hereby authorized to draw his warrant upon the state treasurer for the payment of said demands, and the state treasurer is authorized to pay the same.

§ 7. This act shall take effect immediately.

ACT 3565.

An act to provide for the levy and collection of taxes by and for school districts, except in municipal corporations of the first class.

[Approved February 14, 1891. Stats. 1891, p. 4.]

§ 1. In all cases where the board of school trustees, board of school directors, board of education, or other governing board of any school district in this state, except in [a] municipal corporation of the first class, has or may hereafter have power to raise money by taxation without a vote of the people of the school district, in addition to the funds provided by state and county for school or educational purposes, such money shall be raised and such taxes shall be levied and collected in the manner following, to wit: The board of trustees, directors, or board of education shall, within the limits fixed by law, estimate the amount of money to be so raised by taxation, and required by their respective districts for school purposes during the year next ensuing, which year shall begin on the first Monday of January, at 12 o'clock, M. Said meeting for such purpose shall be held between the first and twentieth day of September in each year; said estimate, showing the amount and for what purpose the same is to be used, shall be entered upon the records of the board making the same, and signed by a majority of said board, and attested by the clerk or secretary of said board. Said clerk or secretary shall immediately furnish to the board of supervisors of the county in which such district is situated a copy of said record containing such estimate, which shall show the name of the district, the amount of money to be raised, and the purposes for which it is to be used.

§ 2. The board of supervisors, upon receipt of such estimate, must, at the time of levying the county taxes, levy a tax upon all the taxable property in the school district requiring such money sufficient to raise the amount; the rate of taxation shall be ascertained by deducting fifteen per cent for anticipated delinquencies from the aggregate assessed value of the property in the district as it appears on the assessment-roll of the county, and then divide the amount to be raised by the remainder of said aggregate assessed value. The taxes so levied shall be computed and entered on the assessment-roll by the county auditor, and collected at the same time and in the same manner as state and county taxes; and when collected, shall be paid into the county treasury for the use of the district for which said money was collected. The county treasurer shall, upon demand, pay out such moneys to the district entitled thereto, in the same manner as other school moneys are paid out by such treasurer.

§ 3. All acts and parts of acts in conflict with this act are hereby repealed.

The code commissioners say of this act: "Modified, perhaps repealed, by Political Code, §§ 1880 and 1886, as amended 1892, p. 263."

ACT 3566.

To enable cities of the fifth class to issue bonds for the purchase of schoolhouse lots, for the building of schoolhouses and supplying the same. [Stats. 1891, p. 264.]

Repealed 1898, p. 295.

See Act 3567, post.

ACT 3567.

An act to enable school districts, in cities of the fifth class, and school districts which embrace territory a portion of which is within and a portion of which is without such cities of the fifth class, to issue bonds for the purpose of raising money to purchase school lots, and for building or purchasing one or more schoolhouses, and supplying the same with furniture, necessary apparatus, and improving the grounds, and for liquidating any indebtedness already incurred for such purposes, and to repeal an act approved March 31, 1891, entitled "An act to enable cities of the fifth class to issue bonds for the purpose of raising money to purchase school lots and for building or purchasing one or more schoolhouses, and supplying the same with furniture, necessary apparatus, and improving the grounds, and for liquidating any indebtedness already incurred for such purposes."

[Approved March 23, 1893. Stats. 1893, p. 292.]

Amended 1897, p. 103.

Citations. Cal. 153/286, 287.

§ 1. The board of education of any school district in a city of the fifth class, or of any school district which embraces territory, a portion of which is within and a portion of which is without such city of the fifth class, may, when in their judgment it is advisable, and must, when requested by the board of trustees of such city, call an election and submit to the electors of the district whether the bonds of such district shall be issued and sold for the purpose of raising money to purchase school lots, and for building or purchasing one or more schoolhouses, and supplying the same with furniture, necessary apparatus, and improving the grounds, and for liquidating any indebtedness already incurred for such purposes. [Amendment approved March 11, 1897. Stats. 1897, p. 103. In effect immediately.]

§ 2. Such election must be called by posting notices, signed by the board of education, in three of the most public places in the district, for not less than twenty days before the election, and by publishing such notices, in some newspaper published in such city, not less than once a week for three successive weeks.

§ 3. Such notices must contain:

1. The time and place of holding such election.
2. The names of one inspector and two judges in each voting precinct in said district, to conduct the same.

3. The hours during the day, not less than six hours, in which the polls will be open.

4. The amount and denomination of the bonds, the rate of interest, and the number of years, not exceeding ten, the whole or any part of said bonds are to run.

§ 4. Such election shall be held, in all respects as nearly as practicable, in conformity with the general election law; provided, that no particular form or ballot shall be required, excepting that the words to appear on the ballots, which shall be "Bonds—Yes," or "Bonds—No"; nor shall any informalities, not amounting to fraud, in conducting such election, invalidate the same.

§ 5. On the seventh day after said election, at 1 o'clock, P. M., the returns having been made to the board of education, the board must meet and canvass said returns, and if it appears that two-thirds of the votes cast at said election were in favor of issuing such bonds, then the board shall cause an entry of that fact to be made upon its minutes, and shall certify the board of supervisors of the county in which said district is located the proceedings had in the premises; and thereupon said board of supervisors shall be and they are hereby authorized and directed to issue the bonds of such district to the number and amount provided in such proceedings, payable out of the bond fund of such district (naming the same), and that the money shall be raised by taxation upon the taxable property in said district for the redemption of said bonds, and the payment of the interest thereon; provided, that the total amount of bonds so issued shall not exceed five per cent of the taxable property of the district as shown by the last equalized assessment of the property in such school district.

§ 6. The board of supervisors, by an order entered upon its minutes, shall prescribe the form of said bonds, and of the interest coupons attached thereto, and must fix the time when the whole or any part of the principal of said bonds shall be payable, which shall not be more than ten years from the date thereof.

§ 7. Said bonds must be payable in gold coin of the United States; must be signed by the president of the board of supervisors, and countersigned by the clerk of the county, who must affix the county seal thereto; must not bear a greater rate of interest than eight per cent, said interest to be payable semi-annually in like gold coin; and said bonds must be sold in the manner prescribed by the board of supervisors, but for not less than par, in gold coin of the United States, and the proceeds of the sale thereof must be deposited in the county treasury to the credit of the building fund of said school district, and be drawn out for the purpose aforesaid as other school moneys are drawn out.

§ 8. The board of supervisors, at the time of making the levy of taxes for county purposes, must levy a tax for that year upon the taxable

property in such district for the interest and redemption of said bonds; and such tax must not be less than sufficient to pay the interest of said bonds for that year, and such portion of the principal as is to become due during such year, and in any event must be high enough to raise, annually, for the first half of the term said bonds have to run, a sufficient sum to pay the interest thereon, and during the balance of the term, high enough to pay such annual interest; and to pay, annually, a proportion of the principal of said bonds equal to a sum produced by taking the whole amount of said bonds outstanding and dividing it by the number of years said bonds then have to run; and all moneys so levied, when collected, shall be paid into the county treasury to the credit of the building fund of such district, and be used for the payment of principal and interest on said bonds, and for no other purpose. The principal and interest on said bonds shall be paid by the county treasurer, upon the warrant of the auditor, out of the fund provided therefor; and it shall be the duty of the auditor to cancel and file with the treasurer the bonds and coupons as rapidly as they are paid. This section shall also apply to all cases where bonds were issued under the provisions of the aforesaid act, approved March 31, eighteen hundred and ninety-one, and in such cases all moneys collected under the provisions of this section shall be paid by the county treasurer, upon the warrant of the auditor, to the city treasurer of the city where such bonds and the interest thereon are payable. Warrants for all such moneys shall be drawn by the auditor from time to time, upon the demand of such city treasurer. [Amendment approved March 11, 1897. Stats. 1897, p. 104. In effect immediately.]

§ 9. If the board of supervisors of any county in which any school district has issued bonds, under the provisions of this act or under the provisions of said act approved March thirty-first, eighteen hundred and ninety-one, shall fail to make the levy necessary to pay such bonds or interest coupons at maturity, and the same shall have been presented to the county treasurer, and the payment thereof refused, the owner may file the bonds, together with all unpaid coupons, with the state controller, taking his receipt therefor, and the same shall be registered in the state controller's office; and the state board of equalization shall, at their next session, and at each annual equalization thereafter, add to the state tax to be levied in said district a sufficient rate to raise the amount of principal and interest past due prior to the next levy, and the same shall be levied and collected as a part of the state tax, and paid into the state treasury, and passed to the special credit of such district bond tax, and shall be paid by warrants, as the payments mature, to the holder of such registered obligations, as shown by the register in the office of the state controller, until the same shall be fully satisfied and discharged; any balance then remaining shall be transmitted to the treasurer of the county in which is situated the district by which such bonds were issued, and shall be placed by the county treasurer to the credit of the general school fund of said district. [Amendment approved March 11, 1897. Stats. 1897, p. 104. In effect immediately.]

§ 10. The act approved March thirty-first, eighteen hundred and ninety-one, entitled "An act to enable cities of the fifth class to issue bonds for the purpose of raising money to purchase school lots, and for building or purchasing one or more schoolhouses, and supplying the same with furniture, necessary apparatus, and improving the grounds, and for liquidating any indebtedness already incurred for such purposes," is hereby repealed.

§ 11. This act shall take effect and be in force from and after its passage.

ACT 3568.

An act to provide for the change of name of school districts and the manner of making such change.

[Approved March 16, 1903. Stats. 1903, p. 163.]

§ 1. Whenever a petition shall be presented to the board of supervisors, signed by at least fifteen qualified electors of said district, asking that the name of any school district be changed, the said board of supervisors shall designate a day upon which they will act upon such petition, which day must not be less than ten days nor more than forty days after the receipt thereof. The clerk of the said board of supervisors must give notice to all parties interested, by sending by registered mail to each of the trustees of such school district, a notice of the time set for the hearing of said petition, which notice must be mailed at least ten days before the day set for hearing, whereupon the board shall by resolution either grant or deny the petition, and if granted, the clerk shall notify the county superintendent of the change of the name of said district.

§ 2. This act shall take effect immediately.

ACT 3569.

An act to provide for the appointment and salary of a clerk in the office of the superintendent of public instruction, and to make an appropriation therefor. [Approved March 27, 1895. Stats. 1895, p. 238.]

ACT 3570.

An act to create and administer a public school teachers' annuity and retirement fund in the several counties, and cities and counties of the state.

[Approved March 26, 1895. Stats. 1895, p. 170.]

Amended 1897, p. 225; 1901, p. 676; 1903, p. 271; 1909, p. 296.

§ 1. The superintendent of public schools, or in consolidated cities and counties, the superintendent of common schools, the county treasurer, or in consolidated cities and counties, the city and county treasurer, and the chairman of the board of supervisors, or in consolidated cities and counties, the mayor, of each county, or consolidated city and county, and

their successors in office, are hereby constituted a board of trustees of the public school teachers' annuity and retirement fund, to manage the same as hereinafter directed; said board shall be known as the public school teachers' retirement fund commissioners, and its members shall serve without extra compensation, and shall be liable on their official bonds for the performance of the duties imposed by this act. It shall be the duty of the district attorney of every county, or the city and county attorney of every consolidated city and county, to attend to all suits, matters, and things in which the said board of commissioners may be legally interested, and to give his advice or opinion in writing, whenever required by said board. [Amendment approved March 29, 1897. Stats. 1897, p. 225. In effect immediately.]

§ 2. The public school teachers' retirement fund commissioners shall organize as such board by choosing one of their number as chairman and one as secretary. The county treasurer, or in consolidated cities and counties, the city and county treasurer, shall be ex officio treasurer of said retirement fund. Said board shall hold quarterly meetings on the third Saturday in January, April, July, and October of each year, at the office of the county superintendent of public schools, or, in consolidated cities and counties, at the office of the superintendent of schools. It shall biennially, at its meeting in January, select from its members a chairman and a secretary. A majority of its members shall constitute a quorum for the transaction of business. It shall report annually to the board of supervisors of the county, or consolidated city and county, the condition of said retirement fund, and the receipts and disbursements on account of the same, with a full and complete list of the beneficiaries of said fund, and the amounts paid to each of them. [Amendment approved March 29, 1897. Stats. 1897, p. 225. In effect immediately.]

§ 3. Said board of public teachers' retirement fund commissioners shall issue warrants, signed by its chairman and secretary, to the persons entitled thereto, for the amounts of money ordered paid to such persons from said fund by said board, stating therein for what purpose such payment is made, and the treasurer shall pay such warrants on presentation. Said board shall keep a record of all its proceedings, and said record shall be open to public inspection. It shall, at each quarterly meeting, make a list of all persons, if any, entitled to pay out of the funds provided by this act, and enter said list in a book to be kept by them for that purpose, to be known as the public school teachers' annuity and retirement fund book, which list shall be sworn to as correct by the chairman and the secretary of said board, and which shall be open to public inspection. [New section approved March 29, 1897. Stats. 1897, p. 226. In effect immediately.]

§ 4. In addition to the powers hereinbefore granted to said board, it shall have the power (1) to provide for the payment of its necessary expenses, such as printing, stationery, and postage stamps; and where the number of those subject to the burdens of this act is greater than one

hundred, it may employ a clerk at a salary not to exceed fifty (50) dollars per annum; and (2) to make such needful rules and regulations for the transaction of its business, from time to time, as may be necessary; the said expenses and the said clerk's salary shall be paid from the annuity fund in such counties or consolidated cities and counties, wherein there shall be "annuity funds," but, wherever there shall be no "annuity fund," the said expenses shall be paid from the "distribution fund," and the said salary from the reserve fund. [Amendment approved March 20, 1903. Stats. 1903, p. 271. In effect immediately.]

Amended also in 1897, Stats., 1897, p. 232, and in 1901, Stats. 1901, p. 677.

§ 5. Those subject to the burdens of this act in each county, or in each consolidated city and county, at a meeting called for the purpose by the superintendent of public schools of such county or of such city and county, on the first Saturday in May following the creation of the fund hereinafter specified, shall elect by ballot five of their number, who shall constitute a committee on retirement; the members of said committee shall, immediately after their election, classify themselves by lot so that one shall serve for one year, two serve for two years, and two shall serve for three years; and, annually, at a meeting to be called in the same manner on the first Saturday in May of each year after the first meeting, the successor or successors of the member or members of said committee whose term of office is about to expire, shall be elected for a term of three years; provided, however, that said committee shall always consist of at least one class teacher from some primary school, one from some grammar school, and one from some high school in the county, or consolidated city and county, whenever such election is possible. In the event of a vacancy, the superintendent of schools shall appoint until the next annual election.

Within fifteen days after the taking effect of this amendatory act, the contributors to said fund in any county, or consolidated city and county, in this state, at a meeting called for that purpose, by the superintendent of public schools of such county, or consolidated city and county (or if he neglects or refuses to call such meeting, then such meeting may be called by ten of such contributors), may select and designate by resolution adopted by a majority vote of those present, which of the two alternatives presented in section 8 class two, in section 8 class six, in section 8 class seven, and in section 11, respectively, shall be followed in such county or consolidated city and county.

In the event that no such meeting is called or held for the purpose of making such selection and designation, the said contributors in such county, or consolidated city and county, wherein no such meeting shall be held, will be deemed to have selected the first (marked subdivision "A") of each of the above mentioned alternatives.

In counties and consolidated cities and counties where a public school teachers' annuity and retirement fund shall be hereafter created the said selection and designation shall be made at the said meeting to be held on the first Saturday in May following the creation of said fund. After any selection and designation shall have been made, pursuant to this sec-

tion, no change shall ever be made thereafter in that connection. A certified copy of all resolutions adopted pursuant to this section shall be furnished by said meeting of said contributors to the board of public school teachers' retirement fund commissioners of such county or consolidated city and county. [Amendment approved March 20, 1903. Stats. 1903, p. 271. In effect immediately.]

Amended also in 1897, Stats. 1897, p. 227, and 1901, Stats. 1901, p. 677.

§ 6. The board of education of any incorporated city or town, and the board of trustees of any school districts outside of said city or town, shall refer all applications for retirement to said committee on retirement, or may, of its own motion, submit the name of any person or persons, whom it desires to have retired, to the said committee on retirement and it shall thereupon be the duty of said committee to investigate the case and report to said board of education or board of trustees, whether or not said teacher should be retired, and the annuity to which said teacher is entitled, if entitled to any. At least three members of the said committee must concur in the report, if it be in favor of granting said annuity. This report of said committee shall be final. Said board of education, or board of trustees, shall thereupon certify and send this report to the public school teachers' retirement fund commissioners, who shall be bound by its decision. [New section, approved March 29, 1897. Stats. 1897, p. 227. In effect immediately.]

§ 7. In addition to the powers heretofore granted to said committee on retirement, it shall have the power (1) to subpoena and compel witnesses to attend and testify before it on all matters relating to the operation of this act, and any member of said committee may administer an oath or affirmation to such witness in the form prescribed in courts of justice; (2) to make such rules and regulations for the transaction of its business as may from time to time be necessary. [New section approved March 29, 1897. Stats. 1897, p. 227. In effect immediately.]

§ 8. Any public school teacher or any occupant of one of the offices mentioned in subdivision 4 of section 12 of this act, who has been a contributor under the provisions of this act, and who has ceased teaching, for a time, or has ceased to occupy such office, may again become a contributor upon returning to teaching in the public schools of this state, or upon becoming an occupant of any one of the offices mentioned in said subdivision 4 of section 12, and shall thereupon be credited with his said previous service and contribution; provided, that no person shall be a contributor to a public school teachers' annuity and retirement fund under this act who does not hold a valid certificate or diploma to teach in the public schools of this state.

The annuitants under this act are classed as follows:

ANNUITANTS.

Class One. Any teacher who shall have served in the public schools of this state for thirty years as a teacher, and who shall have been sub-

ject to the burdens imposed by this act for thirty years, shall be entitled to retire under the provisions of this act.

Any teacher who has served in the public schools of this state, and who has served in one or more of the offices mentioned in said subdivision 4 of section 12, and the aggregate period of whose service in the said public schools and in said office or offices shall be thirty years, and who shall have been subject to the burdens imposed by this act during said thirty years, shall be entitled to retire under the provisions of this act; provided, however, such teacher shall have held a valid certificate or diploma to teach in the public schools of this state during all of said period. Annuity of class one shall be entitled to receive from the said public school teachers' annuity and retirement fund the sum of thirty (30) dollars per month in counties, and fifty (50) dollars per month in consolidated cities and counties, payable quarterly.

Class Two. Any teacher who shall have served in the public schools of this state for thirty years, and who was unable to contribute to said public school teachers' annuity and retirement fund for thirty years, by reason of the nonestablishment or nonexistence of said fund, and any teacher who shall have served in the public schools of this state, and who shall have served in one or more of the offices mentioned in said subdivision 4 of section 12, and the aggregate period of whose service in the said public schools, and in said office or offices, is thirty years, and who has held a valid certificate or diploma to teach in the public schools of this state during all of said period, and who was unable to contribute to said fund for thirty years by reason of the nonestablishment or nonexistence of said fund, shall be retired upon application to the said board under either subdivision A or subdivision B, hereof, as the contributors to said fund in such county, or consolidated city and county, shall have selected to follow, as provided in section 5 of this act.

A. Such applicant upon retirement shall receive from the public school teachers' annuity and retirement fund the sum of thirty (30) dollars per month in counties, and fifty (50) dollars per month in consolidated cities and counties, payable quarterly; provided, that such applicant for retirement is, at the date of the taking effect of this amendatory act, a contributor to the public school teachers' annuity and retirement fund in the county or consolidated city and county, where he is teaching or holding such office, or becomes a contributor thereto within ninety (90) days after he becomes such teacher or such office holder, and shall have paid into the said fund, at the time of such retirement, a sum aggregating what he would have paid into said fund in thirty (30) years, had he been a contributor thereto for that period; provided, further, that annuities under this class shall not begin until five (5) years after the retired teacher became a contributor.

B. Such applicant upon retirement shall receive from the public school teachers' annuity and retirement fund the sum of five (5) dollars per month, payable quarterly, for every two and one-half (2½) years (or fraction thereof equal to or greater than one-half of two and one-half years) such teacher or office holder shall have contributed to said fund, until the maximum annuity of thirty (30) dollars per month

in counties and fifty (50) dollars per month in consolidated cities and counties shall have been reached; provided, that such applicant for retirement is, at the date of the taking effect of this amendatory act, a contributor to the public school teachers' annuity and retirement fund in the county, or consolidated city and county where he is teaching or holding such office, or becomes a contributor within ninety (90) days after the taking effect of this amendatory act, or becomes a contributor thereto within ninety (90) days after he becomes such teacher or such office holder.

No person shall be retired under this subdivision unless he shall have paid into said fund, at the time of such retirement, a sum aggregating what he would have paid into said fund in thirty (30) years had he been a contributor thereto for that period.

No teacher or office holder shall be retired until he has been a contributor to the fund for five (5) years.

Class Three. Any public school teacher who shall have served for thirty years, twenty-five of which shall have been in the public schools of this state, or partly in the public schools of this state and partly in one or more of the offices mentioned in said subdivision 4 of section 12, and who shall have been subject to the burdens imposed by this act for twenty-five years, shall receive upon retirement after thirty years of such service, the sum of thirty (30) dollars per month in counties, and fifty (50) dollars per month in consolidated cities and counties, payable quarterly; provided, he shall have paid into the said fund, at the time of such retirement, a sum aggregating what he would have paid into said fund in thirty (30) years, had he been a contributor thereto for that period.

Class Four. Any public school teacher or any officer mentioned in said subdivision 4 of section 12, subject to the burdens of this act, who shall remove to another county in this state, may continue to be a contributor to the public school teachers' annuity and retirement fund in the county, or in the consolidated city and county, from which he removed, so long as he continues to be a public school teacher or the occupant of one of said offices; and it is hereby made the duty of the county treasurer of the county, or consolidated city and county, wherein such teacher or officer agreed to become subject to the burdens of this act, to receive such contributions of such nonresidents, and to place such contributions to the credit of the public school teachers' annuity and retirement fund.

Class Five. Any teacher who ceases to serve in the public schools of any county, or of any consolidated city and county, or who ceases to serve in one of the offices mentioned in said subdivision 4 of section 12, in the county or consolidated city and county, where he has been subject to the burdens imposed by this act, and who shall have served in the public schools of this state for thirty (30) years, or who shall have served partly in the public schools of this state and partly in one or more of the offices mentioned in said subdivision 4 of section 12, for an aggregate period of thirty (30) years, shall be entitled to retire, and to receive from the public school teachers' annuity and retirement fund

of the county, or consolidated city and county, to which he has contributed for at least five (5) years, an annuity equal to such proportion of the maximum annuity granted under this act as the time he has been subject to the burdens imposed by this act in such county, or consolidated city and county, bears to the period of thirty years.

Class six. Contributors to said public school teachers' annuity and retirement fund retiring under this class, shall be retired either under subdivision A, or subdivision B hereof, as the contributors to said fund in such county, or consolidated city and county, shall have selected to follow, as provided in section 5 of this act.

A. If any teacher, or any office holder mentioned in said subdivision 4 of section 12, after the expiration of fifteen (15) years, and before the expiration of thirty (30) years, of service in the public schools of this state, or of service partly in the said public schools and partly in one or more of the offices mentioned in said subdivision 4 of section 12, shall be compelled, by reason of incapacity, to retire from public school service, or from one of the offices mentioned in said subdivision 4 of section 12, while holding a valid certificate or diploma to teach in the public schools of this state, such retiring teacher, or office holder, if a contributor to the said fund at the time of retirement, shall be entitled to receive, from the public school teachers' annuity and retirement fund, as many thirtieths (30th) of the full annuity as he has had years of said service, by paying into the public school teachers' annuity and retirement fund the contributions to said fund corresponding to those years of service rendered at a time when, or in a place where, it was impossible to make such contributions by reason of the nonexistence of a public school teachers' annuity and retirement fund; provided, that he shall have contributed to the said fund for five years before he becomes an annuitant.

B. If any teacher or any office holder mentioned in said subdivision 4 of section 12, after the expiration of five years, and before the expiration of thirty years of service in the public schools of this state, or of service partly in the said public schools and partly in one or more of the offices mentioned in said subdivision 4 of section 12, shall be compelled by reason of incapacity, to retire from public school service, or from one of the offices mentioned in said subdivision 4 of section 12, while holding a valid certificate or diploma to teach in the public schools of this state, such retiring teacher or office holder, if a contributor to the said fund at the time of retirement, shall be entitled to receive from the public school teachers' annuity and retirement fund a sum in dollars equal to such proportion of the maximum annuity granted under this act as the time he shall have been subject to the burdens of this act bears to the period of thirty years; provided, however, that those who have served in the public schools of this state, or partly in the said public schools and partly in one or more of the offices mentioned in said subdivision 4 of section 12, at a time when, or in a place where, it was impossible to make contributions to said fund, by reason of the nonexistence of said fund, may receive in addition to the proportion of the maximum annuity last hereinabove specified, such an additional pro-

portion of the full annuity as the number of years of said service, while not burdened with the provisions of this act, bears to thirty years; provided, further, that they shall have paid into the said fund, at the time of their retirement, an amount equal to what they would have paid into said fund had they been subject to the burdens imposed by this act for the full time of said service, not to exceed thirty years; and provided, further, that no person retired under this subdivision B shall ever receive a greater annuity than he would have received had he retired on account of years of service; and provided, further, that he shall have contributed to the said fund for five years before he becomes an annuitant.

Class Seven. Contributors to said public school teachers' annuity and retirement fund, retiring under this class, shall be retired under either subdivision A, or under subdivision B, hereof, as the said contributors to said fund in such county, or consolidated city and county, shall have selected to follow, as provided in section 5 of this act.

A. Any public school teacher who shall have been subject to the burdens imposed by this act, for a period of at least five years, and who shall have served in the public schools of this state for a period of fifteen (15) years, or partly in the said public schools and partly in one or more of the offices mentioned in said subdivision 4 of section 12, for a period of fifteen years, and who has held a valid certificate or diploma to teach in the schools of this state during all said period, and who shall have been declared incapacitated, by the committee on retirement, to perform the duties of a public school teacher, or the duties of the office which he may be occupying, if he should be occupying one of the offices mentioned in said subdivision 4 of section 12, shall be entitled to retire and to receive an annuity from the public school teachers' annuity and retirement fund, equal to such proportion of the maximum annuity granted under this act as the time he has been subject to the burdens imposed by this act bears to the period of thirty years.

B. Any public school teacher who shall have been subject to the burdens imposed by this act for a period of five years (5), and who shall have served in the public schools of this state for a period of five (5) years, or partly in the said public schools and partly in one or more of the offices mentioned in said subdivision 4 of section 12, for a period of five years, and who has held a valid certificate to teach in the schools of this state during said period, and who shall have been declared incapacitated by the committee on retirement, to perform the duties of a public school teacher, or the duties of the office which he may be occupying, if he should be occupying one of the offices mentioned in said subdivision 4 of section 12, shall be entitled to retire, if a contributor to the fund at the time of retirement, and to receive an annuity, from the public school teachers' annuity and retirement fund a sum in dollars equal to such proportion of the maximum annuity granted under this act, as the time he shall have been subject to the burdens imposed by this act bears to the period of thirty years.

Class Eight. Teachers of public evening schools receiving a salary of fifty (50) dollars or less per month, shall be subject to one-half of the

burdens, and shall be entitled to one-half of the benefits, of this act; provided, that any public school teacher who is employed both in a day and an evening school shall be considered for the purposes of this act to be employed in a day school only; provided, further, that an evening public school teacher, who at any time before retirement under the provisions of this act shall become a day public school teacher, or an occupant of one of the offices mentioned in said subdivision 4 of section 12, shall upon retirement as a day public school teacher, or as one of said officers, be credited with half time for his said evening school service, under the class in which he may be retired.

HIGH SCHOOL AND OTHER PUBLIC SCHOOL TEACHERS.

High school and other public school teachers in counties, or in consolidated cities and counties, in which the act of which this act is amendatory has been in force, who were unable by reason of any imperfection in the terms of said act, to become contributors, shall be allowed, upon admission under the terms of this act, and upon the payment of the amounts they would have paid had they been contributors, to date the time of their admission from the time of the organization of the public school teachers' annuity and retirement fund in their county or consolidated city and county. City treasurers are hereby directed to pay into the public school teachers' annuity and retirement fund of their respective counties the contributions of teachers and officers, whose salaries are paid by, or through, city treasurers, in the same manner as provided in the act of which this act is amendatory, to be paid by the treasurer of a county, or consolidated city and county.

Compliance with these provisions shall render any public high school or other public school teacher eligible to the benefits provided in any one of the eight classes of annuitants in this act created to which such teacher may be qualified.

SUSPENSION OF ANNUITIES.

Any and all annuities shall be suspended if the recipient returns to the profession of teaching or becomes the occupant of one of the said offices mentioned in subdivision 4 of section 12. Any annuity less than two-thirds of the maximum annuity shall cease at the expiration of one year from the time at which the committee on retirement, constituted in section 5 of this act, shall decide that the recipient has been restored to the capacity of performing the duties of a public school teacher.

All teachers now employed in the public schools of this state who filed the notice specified in the act of which this act is amendatory, within ninety days after the passage of this amendatory act in counties or in consolidated cities and counties where the provisions of any act or acts to which this act is amendatory are now applicable, and all other public school teachers in other counties or consolidated city and county who become contributors within ninety days after the establishment of a public school teachers' annuity and retirement fund therein and who shall have paid at the time of retirement an amount equal to what they

would have paid had they been subject to the burdens imposed by the provisions of this act for thirty (30) years, shall not suffer any reduction of annuities; provided, however, that the provisions of this paragraph shall not apply to counties or consolidated cities and counties in which the contributors to said fund shall select to be governed by the provisions of subdivision B of classes two, six and seven respectively of section 8, and subdivision B of section 11, as provided in section 5. [Amendment approved March 20, 1903. Stats. 1903, p. 272. In effect immediately.]

Also amended in 1897, Stats. 1897, p. 227, and in 1901, Stats. 1901, p. 677.

§ 9. If at the end of any quarter year there shall not be a sufficient amount of money in the "annuity fund," or in the "distribution fund," as the case may be, to pay all warrants and demands of annuitants in full, then the money in that fund shall be divided pro rata among them, and the sum received by each annuitant shall be in full discharge of all claims against said fund to that date. [Amendment approved March 20, 1903. Stats. 1903, p. 278. In effect immediately.]

Also amended in 1897, Stats. 1897, p. 227.

§ 10. The public school teachers' annuity and retirement fund herein provided for, shall consist of the following, with the income and interest thereof:

(I) Twelve (12) dollars per school year of the salaries paid to all those subject to the burdens imposed by this act, in each county, or consolidated city and county, shall be deducted from the warrants for salary, and paid by the treasurer of the county, or consolidated city and county, to the public school teachers' retirement fund commissioners of said county, or consolidated city and county; and it shall be the duty of the secretary of the board of education in every incorporated city or town, or consolidated city and county, and the clerk of the board of trustees of every public school district outside of such city or town, or consolidated city and county, to deduct from each salary demand, the said sum according to the class to which each teacher belongs, and to draw his warrant at the end of each month for the total amount in favor of the public school teachers' retirement fund commissioners.

(II) All moneys received from gifts, bequests and devises, or from any other source.

(III) All moneys, pay, compensation, or salary forfeited, deducted or withheld from the warrant or demand for salary of any teacher or teachers for and account of absence from duty from any cause, which the board of education of every incorporated city or town, or the board of trustees of every school district outside of such city or town, may appropriate and set apart for the aforesaid fund; and said board of education or board of trustees are hereby empowered to appropriate such moneys, or any part thereof, for such fund; provided, that in consolidated cities and counties, after the establishment of an annuity fund therein, it is hereby made the duty of the boards of education to ap-

propriate monthly, at least one-half of such moneys for such fund. [Amendment approved March 11, 1909. Stats. 1909, p. 296.]

Also amended in 1897, Stats. 1897, p. 228, and in 1908, Stats. 1908, p. 278.

§ 11. The said public school teachers' annuity and retirement fund shall be divided either as designated in subdivision A hereof, or as designated in subdivision B hereof, as the said contributors to said fund in such county, or consolidated city and county, shall have selected to follow pursuant to the provisions of section five (5) hereof.

A. The said public school teachers' annuity and retirement fund in each county or consolidated city and county, shall be divided into two distinct funds, or accounts, (1) the permanent fund, and (2) the annuity fund.

(1) The permanent fund.

(a) The permanent fund shall consist of: (I) Twenty-five per cent of all contributions from those affected by this act; (II) Twenty-five per cent of all gifts, bequests, or devises, unless otherwise ordered by the donor or the testator; (III) Twenty-five per cent of all moneys deducted from the salaries of teachers because of absence from duty.

(b) When the permanent fund shall amount to the sum of fifty thousand (50,000) dollars, then all moneys thereafter received shall go into the annuity fund, except such gifts, devises, or bequests as may be specially directed by its donor or testator to be placed in the permanent fund.

(c) It shall be the duty of the public school teachers' retirement fund commissioners to invest the aforesaid permanent fund in interest-bearing bonds issued by the federal, state, county, city and county, or municipal governments, and to apply the interest thereon as herein directed.

(2) The annuity fund.

(a) The annuity fund shall consist of: (I) The income derived from the permanent fund; (II) All other moneys belonging to the public school teachers' annuity and retirement fund, not hereinbefore directed to be placed in the permanent fund; (III) All moneys in the fund provided for in the act to which this act is amendatory.

(b) The annuity fund shall be the only one from which annuitants shall be paid.

(c) If at the end of any fiscal year there remain any surplus in the annuity fund, said surplus shall be deposited by the public school teachers' retirement fund commissioners in any savings bank, or savings banks, designated by them.

B. The said public school teachers' annuity and retirement fund, in each county, or consolidated city and county, shall be divided into two distinct funds or accounts, (1) the reserve fund and (2) the distribution fund.

(1) The reserve fund.

The reserve fund shall consist of:

(a) All moneys collected from the unclassified contributors for the first five years after the creation of said fund.

(b) Sixty (60) per cent of all moneys collected from the unclassified contributors for the second five years after the creation of the fund.

(c) Fifty (50) per cent of all moneys collected from unclassified contributors for the third five years after the creation of the fund.

(d) Thirty (30) per cent of all moneys collected from the unclassified contributors for the fourth five years after the creation of the fund.

(e) One hundred per cent of all collections from the classified contributors during the first period of their classification, as hereinafter classified.

(f) Ninety per cent of all collections from the classified contributors during the second period of their classification, as hereinafter classified.

(g) Eighty per cent of all collections from the classified contributors during the third period of their classification, as hereinafter classified.

(h) Seventy per cent of all collections from the classified contributors during the fourth period of their classification, as hereinafter classified.

(i) All collections from sources other than said collections from contributors; all donations, and all interest accrued on such reserve fund for a period of twenty years from the creation of said fund.

It shall be the duty of the public school teachers' retirement fund commissioners to place the reserve fund at interest, monthly, in a savings bank selected by the said commissioners. All original contributors to a public school teachers' annuity and retirement fund in any county or consolidated city and county, and all those who became contributors thereto within the first five years after the creation of said fund shall be known as unclassified contributors.

All who become contributors during the first decade after the fund shall have been in existence for five years shall be known as class A, and those who become contributors to said fund during each decade thereafter shall be known as classes B, C, D, respectively; each of said classes shall exist for four periods, the first three being for ten years each and the fourth for five years.

When the term for which any class has been formed shall have elapsed, all contributors to such classes who continue to contribute, shall be considered as unclassified.

(2) The distribution fund.

The distribution fund shall not be formed in any county or consolidated city and county, until the said public school teachers' annuity and retirement fund shall have been in existence for five years. It shall then consist of:

(a) The income not hereinbefore set aside and declared a part of the reserve fund.

(b) After the said fund shall have been in existence for twenty years, in addition to the income not heretofore set aside for the reserve fund, there shall be transferred quarterly, during the next five years, from the reserve fund to the distribution fund, sixty (60) dollars; provided, that the earnings of the reserve fund for that period shall be equal to, or shall exceed, two hundred and forty (240) dollars per annum. If the earnings of the reserve fund shall not equal two hundred and forty (240) dollars per annum, the amount transferred quarterly from the reserve fund to the distribution fund shall be equal to the quarterly interest of the reserve fund.

(c) After the said fund shall have been in existence for twenty-five (25) years, the distribution fund shall consist of the income not heretofore set aside for the reserve fund, and one hundred and sixty (160) dollars be transferred quarterly, during the next five years from the reserve fund to the distribution fund; provided, however, that this amount does not exceed the quarterly earnings of the reserve fund for that period. Should the one hundred and sixty (160) dollars exceed the said quarterly earnings, then an amount equal to the quarterly earnings of the reserve fund shall be so transferred.

(d) After the said fund shall have been in existence for thirty years the distribution fund shall consist of the income not heretofore set aside for the reserve fund and all of the interest of the reserve fund during the next five years. And should the aforesaid fail to give sufficient funds to pay half of the annuities due, then there shall be transferred quarterly from the reserve fund, over and above the earnings of the reserve fund, thirty (30) dollars per quarter.

(e) After the said fund shall have been in existence for thirty-five years, the distribution fund shall consist of the income not heretofore set aside for the reserve fund. Also the interest on the reserve fund, distributed quarterly during the next five years, and should this not be sufficient to pay half of the annuity due, then there shall be transferred from the reserve fund, in addition to the interest, sixty (60) dollars quarterly.

(f) After the said fund shall have been in existence for forty years, the distribution fund shall consist of the income not heretofore set aside for the reserve fund, the interest on the reserve fund distributed quarterly, and a sum taken from the reserve fund in addition thereto, equal to twelve times the increase in contributors to the said public school teachers' annuity and retirement fund for the preceding year; that is, if the said contributors increase by twenty during the year 1934, then during the year 1935 there shall be taken from the reserve fund in addition to the interest, two hundred and forty (240) dollars per annum.

All disbursements shall be from the distribution fund, except as otherwise provided in section 4. [Amendment approved March 20, 1903. Stats. 1903, p. 279. In effect immediately.]

Also amended in 1897, Stats. 1897, p. 279.

§ 12. This act shall be binding upon such public school teachers, and such officers mentioned in said subdivision 4 of section 12 as shall sign and deliver to the public school teachers' retirement fund commissioners, and to the secretary of the board of education of the incorporated city or town, or consolidated city and county, or to the clerk of the board of trustees of the school district in which they are employed, a notice in substantially the following form:

— — — 19 — —

To the Public School Teachers' Retirement Fund Commissioners, of — — — county (or city and county):

You are hereby notified that I agree to be bound by, and desire to avail myself of the provisions of the act of the legislature of the state

of California, approved March 29th, eighteen hundred and ninety-seven, entitled "An act to amend an act approved March twenty-sixth, eighteen hundred and ninety-five, entitled 'An act to create and administer a public school teachers' annuity and retirement fund in the several counties, and cities and counties in the state,'" as amended March 23, 1901, and —, 1903.

Signed —

provided, that at least thirty public school teachers within the county, or consolidated city and county, shall file the notice hereinbefore set forth; provided, further, that in all counties, or in consolidated cities and counties, where there is a less number of teachers than thirty, this act shall be binding on all those who so signify their intention of being bound thereby.

(2) In consolidated cities and counties it shall be binding upon all teachers elected or appointed to teach in the public schools of such consolidated cities and counties after the passage of this act.

(3) Annuities heretofore granted under the provisions of the act of which this act is amendatory shall be continued for the same amount as heretofore paid, subject, however, to the conditions imposed by sections nine (9) and eleven (11) of this act.

(4) Any county, consolidated city and county, or city superintendent of schools of this state, and any deputy superintendent of schools for any county, consolidated city and county, or city of the state, and any person engaged in any other educational work, required by law to have the qualifications of a teacher in the public schools of this state, may avail himself of the provisions of this act; and whenever the word "teacher" is used in this act it shall be deemed to include such officer or officers. [Amendment approved March 20, 1903. Stats. 1903, p. 282. In effect immediately.]

Also amended in 1897, Stats. 1897, p. 280.

§ 13. Every public officer who shall issue, or receive in his official capacity, any warrant, or who shall receive or pay out any money, in any manner connected with, pursuant to, or dependent upon, the provisions of this act, shall keep a full, accurate and public record of all his transactions appertaining to the same. [Amendment approved March 20, 1903. Stats. 1903, p. 283. In effect immediately.]

§ 14. This act shall take effect and be in force from and after its passage. [Amendment approved March 29, 1897. Stats. 1897, p. 231. In effect immediately.]

ACT 3571.

An act authorizing any teacher or public officer who is now a contributor to a public school teachers' annuity and retirement fund in any county, or consolidated city and county, of this state, where there are no annuitants drawing annuities from the said fund of such county, or consolidated city and county, to cease to be a contributor to such fund within sixty days from the taking effect of

this act, and to have returned to him the amount contributed by him thereto, or such part thereof as may be available for that purpose.

[Approved March 13, 1903. Stats. 1903, p. 131.]

§ 1. Within sixty days after the taking effect of this act, any teacher or public officer who is now a contributor to a public school teachers' annuity and retirement fund in any county or consolidated city and county in this state, created under the provisions of an act approved March 29, 1897, entitled "An act to amend an act approved March 26, 1895, entitled 'An act to create and administer a public school teachers' annuity and retirement fund in the several counties, and cities and counties in the state,'" as amended, may withdraw from such organization by complying with the provisions of this act; provided, however, that the provisions of this act shall not apply to any county or consolidated city and county, where there are, at the time of the taking effect of this act, any annuitants drawing annuities from the said fund of such county, or consolidated city and county.

§ 2. And such teacher, or public officer, desiring to avail himself of the provisions of this act, shall within sixty (60) days after the taking effect of this act, sign and file with the board of public school teachers' retirement fund commissioners of the county, or consolidated city and county, where such teacher or public officer is then a contributor, a notice in writing to the effect that such teacher or public officer, thereby withdraws from the said organization, and shall at the same time sign and file with the clerk, secretary, officer, or board, whose duty it is to issue the salary warrants of such teacher or public officer, a notice similar in substance to the said notice filed with the said board of commissioners.

§ 3. The said board of commissioners, shall, at its next regular meeting after the expiration of said sixty (60) days, pass a resolution directing that all money contributed to said public school teachers' annuity and retirement fund by such teachers or public officers so withdrawing, shall be immediately returned to such teachers or public officers. If the amount in the fund of said organization, after the payment of all legal demands, shall be insufficient to pay each withdrawal the full amount contributed by him, then the said board shall compute the pro rata amount that shall be paid to each, the same to be in proportion to their respective contributions, and shall specify in said resolution the amount to be returned to each.

§ 4. The president and secretary of said board shall thereupon issue warrants to the persons entitled thereto, in such amounts as shall have been so computed and specified by said board, and the treasurer of said fund shall pay the same to the person named in each respective warrant, or to his heirs or assigns.

§ 5. From and after filing the notices, specified in section 2 hereof, each teacher or public officer giving such notices shall be relieved from all burdens and liabilities imposed by the said act designated in section 1 hereof.

§ 6. The clerk, secretary, officer, or board, whose duty it is to issue the salary warrants of such teachers or public officers, shall, from and after the filing of the said notice with him or it, cease to note on the salary warrant of such teacher or public officer any amount to be deducted therefrom by the treasurer on account of said fund.

§ 7. This act shall take effect immediately.

ACT 3572.

An act to provide for the disposal of moneys remaining in the building fund of any school district, after all bonds and indebtedness shall have been paid and liquidated, arising from the construction of school buildings.

[Approved March 13, 1883. Stats. 1883, p. 298.]

§ 1. All moneys that have been or shall be raised by special tax, for the purpose of erecting school buildings, that shall remain in the hands of the county treasurer, after all bonds that have been or may be issued on account of such buildings shall have been redeemed, and all other indebtedness arising on account of such building shall have been liquidated, shall be placed in the county school fund of the school district for which such moneys were raised, subject to the order of the trustees of said district.

ACT 3573.

To enforce the educational rights of children. [Approved March 28, 1874. Stats. 1873-74, p. 751.]

This act was repealed by § 18 of the following act:

ACT 3574.

An act to enforce the educational rights of children and providing penalties for violation of the act.

[Approved March 24, 1903. Stats. 1903, p. 388.]

Amended 1905, p. 388; 1907, p. 95.

Citations. Cal. 149/403. App. 2/735.

See In re Spencer, 149 Cal. 396.

§ 1. Unless excused as hereinafter provided, each parent, guardian or other person, in the state of California, having control or charge of any child between the ages of eight and fourteen years, shall be required to send such child to a public school, during the time in which a public school shall be in session, in the city or city and county or school district in which said child resides; provided, that should it be shown to the satisfaction of the board of education of the city or city and county, or of the board of trustees of the school district in which such child resides, that the child's bodily or mental condition is such as to prevent or render inadvisable attendance at school, or application to study, a certificate from any reputable physician that the child is not able to attend school, or that its attendance is inadvisable, must be taken as satisfactory evidence by any such board, or that such child is being

taught in a private school, or by a private tutor, or at home by any person capable of teaching, in such branches as are usually taught in the primary and grammar schools of this state; or that any such child between the age of twelve and fourteen years has been given a permit to work by the proper judicial officer in accordance with section 2 of "An act regulating the employment and hours of labor of children, prohibiting the employment of minors under certain ages, prohibiting the employment of certain illiterate minors, providing for the enforcement hereof by the commissioner of the bureau of labor statistics and providing penalties for the violation hereof," approved February 20, 1905; or that no public school is located within two miles, by the nearest traveled road, of the residence of the child; or that the child has completed the prescribed grammar school course; then it shall be the duty of such board of education or board of trustees, upon application of the parent, or guardian or other person having control or charge of any such child to excuse such child from attendance at school, during the continuance of such defect or condition upon which such excuse is granted; and provided further, that circumstances rendering attendance impracticable or dangerous to health, owing to unusual storm or other sufficient cause, shall work an exemption from the penalties of this act. If any parent or guardian or other person having control or charge of any such child presents proof to such board of education or board of trustees, by affidavit, that he is unable to compel such child to attend school, said parent, guardian, or other person shall be exempt from the penalties of this act as regards the subsequent nonattendance at school of such child, and said child may, in the discretion of such board, be deemed a truant and subject to assignment to the parental school. [Amendment approved March 20, 1905. Stats. 1905, p. 388.]

§ 2. Any parent, guardian, or other person having control or charge of any such child, who shall fail to comply with the provisions of this act, shall, unless excused or exempted therefrom as hereinbefore provided, be deemed guilty of a misdemeanor, and upon conviction, shall be liable for the first offense, to a fine of not more than ten dollars or to imprisonment for not more than five days, and for each subsequent offense he shall be liable to a fine of not less than ten nor more than fifty dollars, or to imprisonment for not less than five days nor more than twenty-five days, or to both such fine and imprisonment.

§ 3. The board of education of any city or city and county, or the board of trustees of any school district, shall, on the complaint of any person, make full and impartial investigation of all charges against parents or guardians or other persons having control or charge of any such child, for violation of any of the provisions of this act. If it shall appear upon such investigation that any such parent or guardian or other person has violated any of the provisions of this act, it is hereby made the duty of the secretary of such board of education, except as hereinafter provided, or the clerk of such board of trustees, to make and file in the proper court a criminal complaint against such

parent, guardian or other person, charging such violation, and to see that such charge is prosecuted by the proper authorities; provided, that in cities, and in cities and counties, and in school districts having an attendance officer or officers, such officer or officers shall, under the direction of the board of education, or the city superintendent of schools, or the board of trustees, make and file such complaint, and see that such charge is prosecuted by the proper authorities. [Amendment approved March 4, 1907. Stats. 1907, p. 95. In effect immediately.]

§ 4. The board of education of any city, or city and county, may appoint and remove at pleasure one or more attendance officers of such city, or city and county, or the board of trustees of any school district having at least six hundred census children, may appoint and remove at pleasure one attendance officer, and shall fix his or their compensation, not exceeding one thousand dollars per annum for any such officer, payable from the county or special school fund of such city, city and county, or school district, and shall prescribe their duties, not inconsistent with law, and make rules and regulations for the performance thereof; provided, that in any city, or city and county, containing less than twenty thousand school census children, not more than one attendance officer shall be appointed, and in any city, or city and county, containing more than twenty thousand school census children, not more than one attendance officer shall be appointed for each twenty thousand school census children, or fraction greater than one half thereof.] [Amendment approved March 4, 1907. Stats. 1907, p. 96. In effect immediately.]

§ 5. It shall be the duty of the attendance officer, or of any peace officer or any school officer, to arrest during school hours, without warrant, any child between eight and fourteen years of age, found away from his home, and who has been reported to him by the teacher, the superintendent of schools, or other person connected with the school department or schools as a truant from instruction upon which he is lawfully required to attend within the county, city, or city and county, or school district. Such arresting officer shall forthwith deliver the child so arrested either to the parent, guardian or other person having control or charge of such child, or to the teacher from whom said child is then a truant, or if such child shall have been declared an habitual truant, he shall bring such child before a magistrate for commitment by him to a parental school, as provided in this act. The attendance officer or other arresting officer shall report promptly such arrest, and the disposition made by him of such child to the school authorities of such city, or city and county, or school district. Any child may be reported as a truant in the meaning of this act, who shall have been absent from school without valid excuse more than three days or tardy on more than three days, any absence for part of a day being regarded as a tardiness. Any child who has once been reported as a truant and who is again absent from school, without valid excuse, one or more days, or tardy on one or more days, may again be reported as a truant. Any child may

be deemed an habitual truant who shall have been reported as a truant three or more times. Any child who has once been declared an habitual truant and who, in a succeeding year, is reported as a truant from school one of more days or tardy on one or more days without valid excuse, may be again declared an habitual truant. [Amendment approved March 4, 1907. Stats. 1907, p. 96. In effect immediately.]

§ 6. The board of education of any city, or of any city and county, or the board of trustees of any school district having at least six hundred census children, may establish schools in a manner hereinafter prescribed, or set apart in public school buildings for children between eight and fourteen years of age, who are habitual truants from instruction upon which they are lawfully required to attend, or who are insubordinate or disorderly during their attendance upon such instruction, or irregular in such attendance. Such school or room shall be known as a parental school. A parental school, as herein designated and provided for, shall be one of the primary or grammar schools of the city, or city and county, or school district, and the teachers therein shall have the same qualifications and be employed and paid in the same manner as in other primary and grammar schools; but such parental school shall be established and maintained specially for the instruction therein of such pupils, between the ages of eight and fourteen years, as shall be committed thereto as provided in this act, and no pupil shall be committed to, or required to attend, such school, except as in this act provided. Said board of education or board of trustees may make such special rules and regulations for the government of a parental school as shall be consistent with the provisions and purposes of this act, and not contrary to law. Such board may provide for the detention, maintenance and instruction of such children in such schools; and the county superintendent of schools, or such board, or the city superintendent of schools in any city, or city and county, or board of trustees, may, after reasonable notice to any such child, and an opportunity for the child to be heard, and with the consent of the parent, guardian or other person having control or charge of such child, order such child to attend such school, or to be detained and maintained therein for such period and under such rules and regulations as such board may prescribe, not exceeding the remainder of the school year. If such parent, guardian, or person having control or charge of such child shall not consent to such order, such child may be proceeded against under this act. If any child in any city, or city and county or school district in which a parental school may be established, shall be an habitual truant, or be irregular in attendance at school, within the meaning of these terms, as defined in this act, or shall be insubordinate or disorderly during attendance at school, it shall be the duty of the attendance officer, or of the secretary of the board of education or clerk of the board of trustees if there be no attendance officer, to make and file a complaint against such child, in the proper court, charging the fact, and to see that such charge is prosecuted by the proper authority; and if the court, upon the hearing of such complaint, shall find that such charge is sustained, the court shall

render judgment that such child be committed to, and be detained and maintained in, a parental school in such city, or city and county or school district for a term not to exceed the remainder of the current school year; provided that, if any child in any district of a county where there is not a parental school shall be an habitual truant, or be irregular in attendance at school, within the meaning of those terms as defined in this act, or shall be insubordinate or disorderly during attendance at school, it shall be the duty of the county superintendent of schools to make and file a complaint against such child, in the superior court of such county, charging the facts; and if the court, upon the hearing of said complaint, shall find that such charge is sustained by the evidence, the court shall render judgment that such child shall be detained and maintained in a parental school, if there be one in such county, during the remainder of the school term, and if there be no parental school in such county, the court shall render judgment that the parent, guardian or person having the control or charge of such child shall deliver such child at the beginning of each school day for the remainder of the school term, at the school from which such child is then a truant; provided, that if the parent, guardian, or other person having control or charge of such child shall, within three days after the rendition of such judgment, execute a good and sufficient bond to the board of education of the city, or city and county, or board of trustees of the district, with sufficient sureties, in the sum of two hundred dollars, conditioned that such child will, during the remainder of such current school year, regularly attend some public or private school in such city, or city and county, or school district and not be insubordinate or disorderly during such attendance, such bond to be approved by the judge of said court, and be filed with the secretary of the board of education or clerk of the board of trustees, then such court shall make an order suspending the execution of such judgment so long as the condition of such bond shall be complied with. If the condition of such bond be violated, such court, upon receiving satisfactory evidence of the fact in any action brought therefor shall make an order declaring such bond forfeited and directing such judgment to be thenceforth enforced. Such board of education or board of trustees may, at any time, within one year after any such bond shall be declared forfeited, have execution issued against any or all of the parties to such bond, to collect the amount thereof; and all moneys paid or collected on such bond shall be paid over to the parental school fund of such city, or city and county, or school district. No fees shall be charged or received by any court or officer in any proceeding under this section. The confinement of any child in a parental school shall be conducted with a view to the improvement of the child and to its restoration, as soon as practicable, to the school which he would, if not so confined, be required to attend. The city superintendent of schools, or, if there be no city superintendent, the board of education of any city, or city and county, or county superintendent of schools, shall have authority, in their discretion, to parole at any time any child committed to, or ordered to attend, a parental school, except when such commitment shall be by judgment or order of a court; and when such

commitment of any child shall be by judgment or order of a court, such court may, on the recommendation of the city superintendent of schools, of the board of education or county superintendent of schools, make an order paroling such child, upon such terms and conditions as shall be specified in the order. The expense incurred by any city, or city and county, or school district in purchasing or renting a school site, erecting or renting a building and equipping the same, for the maintenance of a parental school, shall be paid out of funds other than those collected for the maintenance of schools. The salaries of teachers and the expense for all school supplies in a parental school shall be paid out of the same funds from which similar salaries and expense are paid for primary and grammar schools, but all other expense incurred in the maintenance of such parental schools shall be paid out of the parental school fund. [Amendment approved March 4, 1907. Stats. 1907, p. 97. In effect immediately.]

§ 7. Whenever any board of education shall determine that it is necessary or expedient for the city or city and county to establish and maintain a parental school, said board shall furnish to the city council, or other governing body of such city or city and county, all necessary and required information and statistics, and if, after consideration, such city council or other governing body grants its consent for the establishment of such parental school, then the board of education shall furnish to the authorities whose duty it is to levy taxes in such city, or city and county, thirty days before the time specified by law for fixing the annual tax rate, an estimate of the cost of purchasing or renting a suitable site, and also an estimate of the cost of renting or erecting a suitable building and equipping the same for occupancy as a parental school, and the cost to the city or city and county, other than for salaries of teachers and for school supplies, of conducting the school for the remainder of the current school year. When, pursuant to such consent by such governing body, such estimates shall have been so made and furnished by the board of education of any city, or city and county, it is hereby made the duty of the authorities whose duty it shall be to levy in such city, or city and county, at the time of levying taxes, to levy a special tax upon all taxable property of said city, or city and county, sufficient in its judgment to provide the facilities requested by the board of education, and for which such estimates shall have been so furnished. It shall be the duty of the board of education, yearly, thereafter, to present to the authorities of the city, or city and county, whose duty it is to levy taxes, on or before the first Monday in July, an estimate of the moneys required for conducting the parental school for the school year, other than for the salaries of teachers and for school supplies. When such estimate shall have been so presented, it shall be the duty of the said authorities to levy a special tax upon the taxable property of said city, or city and county, sufficient to maintain such school for the year, exclusive of salaries of teachers and expense of school supplies. All taxes in this act provided for shall be computed, entered upon the tax roll and collected, in the same manner as other

taxes are computed, entered and collected, and when collected shall be placed in a separate fund, to be known as the "Parental School Fund," and shall be paid out on the order of the board of education for the purposes set forth in this act; provided, that all moneys so collected for the purchase of sites or buildings, or the erection or equipment of buildings for parental school purposes, shall be placed in a separate fund, to be known as the "Parental School Building Fund," and shall be used solely for the purpose or purposes for which collected, except that after such purpose or purposes shall have been fully accomplished, the residue of such fund, if any, may be transferred to said parental school fund.

§ 7 1/2. The board of trustees of any school district wherein a parental school may be established under the provisions of this act, and whenever such board deems it proper, may, for the purpose of raising money for the establishment and maintenance of a parental school for said district, proceed under the provisions of Article XIX, Chapter III, Title III, of Part III, of the Political Code of this state, to raise moneys for such purpose, and the moneys so raised shall be paid into the county treasury, and shall constitute a "parental school fund," for such district. The moneys of such fund shall be used for no other purpose than herein indicated. Money shall be drawn from said fund by the trustees of the district in the same manner as money is drawn from other school funds. [New section approved March 4, 1907. Stats. 1907, p. 99. In effect immediately.]

§ 8. Two or more school districts or cities may unite in the following manner, to form a joint district for the maintenance of a joint parental school. When any board of education or board of school trustees has secured, in the manner as set forth in section 7 of this act, the consent of the legislative body of the city or school district, in which said board of education or board of school trustees holds office, for the union of two or more districts to form a joint parental school district, said board of education or board of trustees shall transmit such information to the board of supervisors of the county of which said city or school district or districts forms a part, setting forth at the same time the cities or districts with which said city or district seeks to unite for the maintenance of a joint parental school. When such information has been received by the board of supervisors from all the cities or school districts seeking to be united, it is hereby made the duty of the board of supervisors, by resolution, to declare such cities or school districts united for the maintenance of a joint parental school, to be known as the joint parental school district of (give the names of the school districts uniting). When the districts have been so united, the boards of education or boards of trustees of the cities or school districts so uniting shall appoint a board of trustees for the joint parental school district, to consist of five members (unless the number of cities or school districts uniting exceeds five), who shall be appointed from the membership of the boards of the several districts or cities uniting, by the respective boards

in approximate proportion to the census children between five and seventeen years of age, in the districts uniting; provided however, that each district shall be represented by at least one member on the board of trustees of the joint parental school district. The members so appointed, to serve for the remainder of the term of office for which they were elected on their respective boards of education or boards of trustees, and when vacancies occur on said board of trustees of joint parental school districts, they shall be filled by the board making the original appointment. The superintendent of schools of each of the cities or school districts uniting, shall be ex officio members of the board of trustees of the joint parental school district, without the right to vote. In the management of a parental school within a school district, city, or city and county, the right to transport pupils to and from school at public expense, when, in the judgment of the board of education, or board of school trustees, the interest of the pupil demands it, is hereby conferred upon such boards. All the powers and duties by any section of this act conferred or imposed upon the boards of school trustees or boards of education of any city, or city and county, in the management of, and the securing of, funds for a parental school within a city or school district, are hereby conferred upon and imposed upon the board of trustees of any joint parental school district in the management of and the securing of funds for the support of a joint parental school; provided, however, that in estimating the expense of maintenance of a joint parental school the amount of money needed for the payment of teachers' salaries and for the furnishing of school supplies, shall be included in the estimate of expenses; and provided further, that the estimates shall be transmitted to the board of supervisors of the county of which the joint parental school district forms a part. When such estimates shall have been so transmitted, it is hereby made the duty of the board of supervisors to levy a special tax upon the taxable property within the boundaries of the joint parental school district, sufficient to provide the facilities requested by the board of trustees of the joint parental school district, and for which such estimate shall have been furnished, and yearly thereafter when the estimates of the total expense of the maintenance of the joint parental school and increased facilities shall have been furnished the board of supervisors, it shall be the duty of said board to levy a special tax sufficient to maintain the school for the year. All taxes in this act provided shall be computed and entered upon the tax-roll and collected in the manner prescribed for the collection of taxes in section 7 of this act; provided, that all moneys so collected shall be collected by the county tax collector and apportioned to the credit of the joint parental school district, and placed in the fund for which they were specially collected. If for sites or buildings, to be placed in a fund known as the joint parental school building fund, to be used exclusively for the purposes for which they were collected, the same as set forth in section 7 of this act. The board of trustees of joint parental school districts shall organize, by the election of one of their number as chairman, and by the election of a secretary who shall be the city superin-

tendent of schools, or the secretary of a board of education or the clerk of one of the boards of education or boards of trustees of the cities, or school districts united, and such secretary shall serve without additional salary. All moneys in a joint parental school fund shall be paid out on the order of the board of trustees of the joint parental school district for the purposes herein set forth, and in the same manner that funds are paid from the ordinary school funds of a school district.

§ 9. All fines paid as penalites for the violation of any of the provisions of this act shall, when collected or received, be paid over by the justice or officer receiving the same to the treasurer of the city, or city and county in which the offense was committed, to be placed to the credit of the parental school fund of such city, or city and county, if there be such a fund, otherwise to the credit of the general school fund of such city, or city and county, or to the county treasurer, to be placed to the credit of the school fund of the school district in which the offense was committed.

§ 10. Any parent or guardian of any deaf, dumb, or blind child, legally entitled to admission to said institution, shall send such child to said institution until such child shall have been therein for five years, or shall have reached the age of majority, unless such child shall be excused from such attendance by the board of education or board of trustees of the city, city and county, or school district in which such child resides, for the reason that the child's bodily or mental condition is such as to prevent or render inadvisable attendance at said institution, or for the reason that such child is receiving proper instruction at home or in some public or private school. Any parent or guardian failing to comply with the requirements of this section shall be guilty of a misdemeanor, and be punishable as provided in section 2 of this act.

§ 11. Any justice of the peace, or recorder of the city or city and county or any justice of the peace of the township in which the school district is located, or in which the offense is committed, shall have jurisdiction of all offenses committed under the provisions of this act.

§ 12. This act shall take effect and be in force from and after July first, nineteen hundred and three.

§ 13. An act entitled an act to enforce the educational rights of children, approved March twenty-eight, eighteen hundred and seventy-four, and all acts and parts of acts in conflict with any of the provisions of this act are hereby repealed.

ACT 3574a.

An act to aid the enforcement of an act entitled, "An act to enforce the educational rights of children and providing penalties for violation of the act," approved March 24, 1903.

[Approved March 8, 1909. Stats. 1909, p. 209.]

§ 1. All minors coming within the provisions of an act entitled, "An act regulating the employment and hours of labor of children, prohibiting the employment of minors under certain ages, prohibiting the employment of certain illiterate minors, providing for the enforcement hereof by the commissioner of the bureau of labor and statistics and providing penalties for the violation hereof," (approved February 20, 1905) and found employed and at work without the necessary legal authorization as provided for and required in said act, and whose ages are between the maximum and minimum age limits as described in an act entitled, "An act to enforce the educational rights of children and providing penalties for violation of the act," shall be placed or delivered into the custody of the school district authorities of the county, city, or city and county in which they are found illegally at work.

§ 2. The commissioner of the bureau of labor statistics is hereby authorized, directed and empowered to enforce the provisions of this act.

§ 3. This act shall take effect immediately.

ACT 3575.

An act to prevent discrimination against female teachers.

[Approved March 30, 1874. Stats. 1873-74, p. 938.]

Female teachers to receive same compensation as males.

§ 1. Females employed as teachers in the public schools of this state shall in all cases receive the same compensation as is allowed male teachers for like services when holding the same grade certificates.

§ 2. This act shall take effect and be in force from and after its passage.

ACT 3576.

To make women eligible to educational offices. [Stats. 1873-74, p. 356.]

Citations. Cal. 71/121; 123/618, 619.

This act appears in full in Political Code, Appendix, tit. "Officers," p. 1472.

ACT 3577.

An act to continue in force school teachers' certificates, state educational diplomas, and life diplomas.

[Approved February 5, 1880. Stats. 1880, p. 4 (Ban. ed., 4).]

Amended 1909, p. 290.

§ 1. All teachers' life diplomas, university documents, normal documents, city, city and county, and county certificates of all grades granted previous to the first day of February, A. D. 1909, shall be continued in full force and effect for the full time for which they were granted, and shall be deemed valid for all purposes and to the full extent of time that the same were and were intended respectively to be, under the laws

in force at the time they were issued. [Amendment approved March 11, 1909. Stats. 1909, p. 290. In effect immediately.]

§ 2. This act shall take effect from and after its passage.

ACT 3578.

An act to continue in operation the public schools of this state.

[Approved March 6, 1880. Stats. 1880, p. 7. (Ban. ed., 14).]

Issuance of temporary certificate.

§ 1. The county superintendent of schools of each and every county in this state is hereby empowered to issue a temporary certificate to any teacher whose certificate has expired, or shall expire between the first day of January, eighteen hundred and eighty, and the first day of June, eighteen hundred and eighty. The certificate so granted shall be of the same grade as the one in place of which it is issued, and shall be valid only until the first meeting of the board which shall be competent to issue teachers' certificates.

§ 2. This act shall take effect immediately.

ACT 3579.

To protect the school districts of this state from injury during the year eighteen hundred and eighty, by the operation of section 12 of Article XIII of the constitution. [Approved April 15, 1880. Stats. 1880, p. 75 (Ban. ed., 261).]

This act declared that school districts should not forfeit their school funds prior to June 30, 1880, by reason of any change in the mode of payment of the funds, and provided for the payment of teachers' salaries until June 30, 1880.

ACT 3580.

An act to provide for the change of name of high school districts and union high school districts and the manner of making such change. [Approved March 23, 1907. Stats. 1907, p. 950.]

ACT 3581.

An act to prevent the formation and prohibit the existence of secret, oath-bound fraternities in the public schools.

[Approved March 13, 1909. Stats. 1909, p. 332.]

§ 1. From and after the passage of this act, it shall be unlawful for any pupil, enrolled as such in any elementary or secondary school of this state, to join or become a member of any secret fraternity, sorority or club, wholly or partly formed from the membership of pupils attending such public schools, or to take part in the organization or formation of any such fraternity, sorority or secret club; provided, that nothing in this section shall be construed to prevent any one subject to the provisions of the section from joining the order of the Native Sons of

the Golden West, Native Daughters of the Golden West, Foresters of America or other kindred organizations not directly associated with the public schools of the state.

§ 2. Boards of school trustees, and boards of education shall have full power and authority to enforce the provisions of this act and to make and enforce all rules and regulations needful for the government and discipline of the schools under their charge. They are hereby required to enforce the provisions of this act by suspending, or, if necessary, expelling a pupil in any elementary or secondary school who refuses or neglects to obey any or all such rules or regulations.

ACT 3582.

An act to regulate the issue of bonds of school districts in cities of the fifth class, and school districts partly within and partly without such cities of the fifth class.

[Approved March 20, 1909. Stats. 1909, p. 528.]

School bonds, in cities of fifth class.

§ 1. The board of education of any school district in a city of the fifth class, or of any school district which embraces territory, a portion of which is within and a portion of which is without such city of the fifth class, may, when in their judgment it is advisable, and must when requested by the board of trustees of such city, call an election and submit to the electors of the district whether the bonds of such district shall be issued and sold for the purpose of raising money to purchase school lots, and for building or purchasing or repairing one or more schoolhouses, and supplying the same with furniture, necessary apparatus, and improving the grounds, and for liquidating any indebtedness already incurred for such purposes.

Election, how called.

§ 2. Such election must be called by posting notices, signed by the board of education, in three of the most public places in the district, for not less than twenty days before the election, and by publishing such notices in some newspaper published in such city, not less than once a week for three successive weeks.

Notice to contain, what.

§ 3. Such notices must contain:

1. The time and place of holding such election.
2. The names of one inspector and two judges in each voting precinct in said district, to conduct the same.
3. The hours during the day, not less than six hours, in which the polls will be open.

The amount and denomination of the bonds, the rate of interest, and the number of years, not exceeding forty, the whole or any part of said bonds are to run.

General election law to govern.

§ 4. Such election shall be held, in all respects as nearly as practicable, in conformity with the general election law; provided, that no particular form of ballot shall be required, excepting that the words to appear on the ballots, which shall be "Bonds—Yes," or "Bonds—No"; nor shall any informalities, not amounting to fraud in conducting such election, invalidate the same.

Canvass of returns.

§ 5. On the seventh day after said election, at 1 o'clock P. M., the returns having been made to the board of education, the board must meet and canvass said returns, and if it appears that two-thirds of the votes cast at said election were in favor of issuing such bonds, then the board shall cause an entry of that fact to be made upon its minutes, and shall certify to the board of supervisors of the county in which said district is located, the proceedings had in the premises; and thereupon said board of supervisors shall be and they are hereby authorized and directed to issue the bonds of such district to the number and amount provided in such proceedings, payable out of the bond fund of such district (naming the same), and that the money shall be raised by taxation upon the taxable property in said district for the redemption of said bonds, and the payment of the interest thereon; provided, that the total amount of bonds so issued shall not exceed five per cent of the taxable property of the district, as shown by the last equalized assessment of the property in such school district.

Form of bonds.

§ 6. The board of supervisors, by an order entered upon its minutes, shall prescribe the form of said bonds, and of the interest coupons attached thereto, and must fix the time when the whole or any part of the principal of said bonds shall be payable, which shall not be more than forty years from the date thereof.

How sold; interest rate.

§ 7. Said bonds must be payable in gold coin of the United States, must be signed by the president of the board of supervisors, and countersigned by the clerk of the county, who must affix the county seal thereto; must not bear a greater rate of interest than eight per cent, said interest to be payable semi-annually in like gold coin; and said bonds must be sold in the manner prescribed by the board of supervisors, but for not less than par, in gold coin of the United States, and the proceeds of the sale thereof must be deposited in the county treasury to the credit of the building fund of said school district, and be drawn out for the purpose aforesaid, as other school moneys are drawn out.

Tax levy.

§ 8. The county board of supervisors shall annually, at the time of levying taxes for county purposes, levy a tax upon the taxable property within such district, sufficient to pay the annual interest on such bonds and to pay the principal in equal annual installments; but the order

directing the issue of bonds may prescribe that the payment of the principal may be deferred for not more than five years. All moneys so collected shall be paid into the county treasury and used for the payment of interest and principal of such bonds, and for no other purpose. The county auditor shall issue his warrant for the payment of interest and installments, and cancel all coupons and bonds redeemed and file them with the county treasurer. The provisions of this section shall, so far as applicable, govern any bonds that may have been heretofore issued by such school districts.

Guarantee to bond-holder.

§ 9. If payment of any coupon or bond lawfully issued by any such school district should, after presentation and demand of payment at the office of the county treasurer, be refused, the owner may file such bond, together with all unpaid interest coupons, with the state controller, taking his receipt therefor, and the same shall be registered in the state controller's office; and the state board of equalization shall, at their next session, and at each annual equalization thereafter, add to the state tax to [be] levied in said district a sufficient rate to raise the amount of principal and interest past due prior to the next levy, and the same shall be levied and collected as a part of the state tax, and paid into the state treasury, and passed to the special credit of such district bond tax, and shall be paid by warrants, as the payments mature, to the holder [of] such registered obligations, as shown by the register in the office of the state controller, until the same shall be fully satisfied and discharged; any balance then remaining shall be transmitted to the treasurer of the county in which is situated the district by which such bonds were issued, and shall be placed by the county treasurer to the credit of the general school fund of said district.

ACT 3583.

An act validating bonds heretofore voted and issued by joint union high school districts. [Approved March 13, 1909. Stats. 1909, p. 352.]

ACT 3584.

An act to validate all bonds heretofore issued, or ordered to be issued by or on behalf of any school district, high school district, union high school district, or joint union high school district, where authority for such issuance has already been given by a vote of more than two-thirds of the electors of such district. [Approved March 13, 1909. Stats. 1909, p. 356.]

ACT 3585.

An act to provide for health and development supervision in the public schools of the state of California.

[Approved April 15, 1909. Stats. 1909, p. 908.]

Health supervision of schools.

§ 1. Boards of school trustees and city boards of education are hereby authorized to establish health and development supervision in the public

schools of this state, and to employ an examining staff and other employees necessary to carry on said work and to fix the compensation for the same. Whenever practicable the examining staff for health and development supervision in the public schools of the state shall consist of both educators and physicians.

Purposes of supervision.

§ 2. The purposes of health and development supervision in the public schools of the state are hereby defined as follows:

1. To secure the correction of developmental and acquired defects of both pupils and teachers which interfere with health, growth and efficiency, by complete physical examination. Said examinations shall occur annually or as often as may be determined by the board of school trustees or city board of education.

2. To adjust school activities to health and growth needs and to development processes and to attend to all matters pertaining to school hygiene.

3. To bring about a special study of mental retardation and deviation of pupils in the public schools.

Examining staff, qualifications of.

§ 3. The requirements for certification of members of the examining staff for health and development supervision in the public schools of the state shall be as follows:

For educators: A life diploma of California of the high school or grammar school grade and a health and development certificate which shall authorize the holder of such certificate to conduct the work authorized by this act, in those grades specified by the life diploma held.

For physicians: A California certificate to practice medicine and surgery and a health and development certificate.

Certificates, granting of.

§ 4. County or city and county boards of education are hereby authorized to grant health and development certificates to holders of life diplomas of California of the high school or grammar school grade or to holders of California certificates to practice medicine and surgery who shall present with such life diplomas or with such certificates to practice medicine and surgery a recommendation from the state board of education certifying special fitness for the work specified in this act.

ACT 3586.

An act for the establishment in the city of Santa Barbara of a state normal school of manual arts and home economics, and making an appropriation therefor. [Approved March 27, 1909. Stats. 1909, p. 795.]

SCHOOL LANDS.

See "State Lands."

TITLE 453.
SEBASTOPOL.

ACT 3587.

Incorporated under Municipal Corporation Act.

See California Blue Book, 1907, p. 311.

Citations. Cal. 153/709.

TITLE 454.
SECRETARY OF STATE.

ACT 3588.

Authorizing the secretary of state to appoint a clerk in addition to the number now allowed by law and to be known as the janitors' clerk, and providing for the payment of his salary. [Stats. 1899, p. 143.]

ACT 3589.

To provide a salary for the keeper of archives in the office of. [Stats. 1891, p. 280.]

See Act 1779.

TITLE 455.
SEDUCTION.

ACT 3590.

To punish. [Stats. 1871-72, p. 184.]

Citations. Cal. 49/9.

This act appears in full in Penal Code, Appendix, p. 886.

TITLE 456.
SEWERS.

See "Streets."

ACT 3595.

To confer power upon supervisors, or other governing body of counties, and cities and counties, to extend and complete all main intercepting sewers heretofore partially constructed. [In effect March 14, 1881. Stats. 1881, p. 76.]

The code commissioners say of this act: "Superseded by County Government Act and the charter of San Francisco."

ACT 3596.

Providing for the establishment and maintenance of sewer districts adjacent to municipal corporations. [Stats. 1899, p. 81.]

ACT 3597.

An act to provide for separate sewer districts within municipalities.

[Approved April 21, 1909. Stats. 1909, p. 1011.]

Municipal sewer districts.

§ 1. The legislative body of any incorporated city or town may divide the territory of such municipality into two or more sewer districts, as

may be made expedient by the configuration of the ground, and establish a separate sewer system for every such district.

Special sewer tax.

§ 2. The proper municipal officers may levy a special sewer tax on all the taxable property in such sewer district, and the proceeds of such tax shall be expended exclusively for the building and maintenance of the sewer system in such district.

Election for bond issue.

§ 3. After a city or incorporated town has been divided into sewer districts, an election may be held, in the manner provided for the issue of city bonds, to determine whether bonds for the building or extension of a sewer system in any such district shall be issued. At such election, only electors residing within such district shall be entitled to vote. If a majority of the electors voting at such election shall vote in the affirmative, the proper municipal officers shall issue and sell such bonds, substantially in the manner provided for the issue of city bonds. But the interest and sinking fund for the payment of such bonds shall be derived exclusively from taxes levied upon property within such district. All provisions of law relating to the payment of interest and sinking fund for city bonds shall govern, so far as applicable, the issue of sewer district bonds.

TITLE 457.

SHASTA COUNTY.

ACT 3599.

An act to increase the number of judges of the superior court of the county of Shasta, state of California, and for the appointment of such additional judge. [Stats. 1905, p. 315.]

Citations. App. 6/299, 300.

ACT 3600.

County clerk, fixing salary of. [Stats. 1873-74, p. 168.]

Repealed by County Government Act, 1897, p. 540, § 186.

ACT 3601.

Supervisors authorized to transfer certain funds of. [Stats. 1873-74, p. 708.]

This act authorized the transfer of the swamp land fund to the general fund.

ACT 3602.

Authorizing transcribing of records in. [Stats. 1862, p. 52.]

Amended 1863, p. 21.

ACT 3603.

Grant I. Taggart, former county recorder of Shasta County, authorizing to certify and sign certain records. [Stats. 1875-76, p. 487.]

ACT 3604.

Roads and highways. [Stats. 1873-74, p. 844.]

Repealed 1888, p. 5, a. X, § 2.

ACT 3605.

Repealing all special laws in relation to roads and highways in. [Stats. 1875-76, p. 803.]

ACT 3606.

Public schools of, employment of teachers in. [Stats. 1873-74, p. 472.]

Amended 1875-76, p. 122. Probably repealed by Political Code, § 1696, as amended 1898, p. 255.

ACT 3607.

Sheriff of, allowed compensation for services of under-sheriff. [Stats. 1873-74, p. 180.]

Repealed by County Government Act, 1897, p. 540, § 186.

TITLE 458.**SHASTA, TOWN OF.****ACT 3612.**

To prevent hogs from running at large. [Stats. 1871-72, p. 157.]

Amended by extending to Redding in Shasta County, and Modesto in Stanislaus County, 1877-78, p. 585.

TITLE 459.**SHEEP.**

Act to protect sheep from the ravages of dogs: See tit. "Dogs," ante.

ACT 3617.

To restrict the herding of sheep in certain counties. [Stats. 1862, p. 490.]

This act applied to Mendocino, Lake, Sonoma, and Marin counties.

ACT 3618.

To restrict the herding of sheep. [Stats. 1861, p. 523.]

Amended 1865-66, p. 56.

ACT 3619.

To protect sheep and lambs in this state. [Stats. 1861, p. 501.]

Amended 1867-68, p. 426; 1869-70, p. 223.

This act protected sheep and lambs from dogs and other animals. It was superseded by the Civil Code, § 8341.

ACT 3620.

An act to create the office of sheep inspector for the state of California, to provide for the appointment, and to define the powers and duties of said officer and his deputies, and their compensation, and provid-

ing for the prosecution of offenses under the same, and to suppress and prevent dissemination of scab among sheep. [Approved March 24, 1903. Stats. 1903, p. 372.]

Inspection of sheep: See post, Act 3622.

ACT 3621.

An act authorizing and empowering the boards of supervisors of the several counties of the state to prevent and eradicate infectious and contagious diseases among sheep, to provide for the appointment of a sheep commissioner, and to define the duties and powers of commissioner.

[Approved March 16, 1889. Stats. 1889, p. 216.]

Appointment of sheep commissioner.

§ 1. Whenever a petition shall be filed with the board of supervisors of any county in this state, signed by not less than fifty resident freeholders of such county, praying for the appointment of the commissioner herein named, said board may, if deemed advisable, appoint some competent person, a resident of the county, who shall act and be known as sheep commissioner, whose duties and powers, which are to be exercised in the prevention and eradication of contagious diseases among sheep, shall be defined and determined by said board; and the fees and compensation of such commissioner, only to be charged when he is actually and necessarily engaged in the performance of his duties, shall be paid out of the treasury of said county as claims against counties are now paid, and be fixed by said board at the time of such appointment.

§ 2. This act shall take effect immediately.

ACT 3622.

An act providing for the inspection of sheep, the appointment of a board of sheep commissioners and for the appointment of inspectors, prescribing their powers and duties, fixing their compensation, and providing for the raising of funds to pay the same, and providing penalties for the violation hereof.

[Approved March 23, 1907. Stats. 1907, p. 905.]

Board of sheep commissioners created.

§ 1. That a state board of sheep commissioners be and the same is hereby created.

Of whom board shall consist. Oath. Bond. Salaries. Qualifications. Meetings.

§ 2. The state board of sheep commissioners, hereinafter called the board, shall consist of six members, one of whom shall be the state veterinarian, acting as ex officio member, and five others to be appointed by the governor, all of whom shall be experienced wool-growers, no two of whom shall be from the same county, and to hold their office for four years or until their successors are duly appointed and qualified. Each

of said commissioners, before entering upon the duties of his office, shall take and subscribe to the constitutional oath of office and enter into a bond with at least two sureties in the penal sum of twenty-five hundred dollars (\$2500), payable to the state of California, and conditioned for the faithful performance of the duties of his office, which bond shall be approved by the governor and filed in the office of the secretary of state. The members of the said board shall each receive for his services six hundred dollars (\$600) per annum and actual expenses while in the discharge of his duties. Said salary and expense shall be paid from the state treasury. Each member of said board shall be a qualified elector from the county from which he is chosen and an experienced wool-grower within the state, and must reside during his term of office within the state. Said board must hold their meetings quarterly and oftener if so requested by any member of the board.

Organization. Reports. Powers of. Estimate for tax levy.

§3. The board shall elect one of its members president, and the board shall appoint a secretary, prescribe his duties and fix his salary, which shall not exceed one thousand dollars (\$1,000) per annum. The board shall maintain an office. The maintenance of such office and the secretary's salary shall be paid from the state treasury in the same manner as the salaries and expenses of state officers. The board shall audit all bills of salaries and expenses incurred in the enforcement of this act that may be payable from the sheep inspection fund, and if found correct, shall certify the same to the board of examiners. The board shall make an annual report to the governor on or before the 15th day of December in each year, giving a statement of the transactions of the board and facts relating to the condition of the sheep industry in this state. The board shall have power to order an inspection for quarantine of any sheep in the state, compel dipping at such times and as often as it deems necessary to insure the eradication of "scab," and divide the state into such districts as may be necessary for the enforcement of this act. The board shall have power to make, adopt and enforce such rules and regulations (not in conflict with the provisions of the state constitution or the laws of this state) as the board may deem necessary for the enforcement of the provisions of this act. It shall be the duty of the state board of sheep commissioners to furnish, on or before the first Monday in September of each year, to the board of supervisors of each county in this state an estimate of the amount of money in the sheep inspection fund, and the estimated value of the sheep in each county, and the estimated rate of tax on each one hundred dollars of such valuation necessary to raise sufficient funds for paying the expenses to be incurred under the provisions of this act during the next year.

Supervisors to levy tax.

§4. The board of supervisors of each county in this state, at the time of the annual levy of county taxes must levy a tax, not to exceed ten mills on the dollar of the assessed valuation of the sheep in their

respective counties. Said tax shall be levied and collected in the same manner as state and county taxes, and the county treasurer of each county shall report the same to the state controller and pay the same into the state treasury in the same manner and at the same time as state taxes are reported and paid. The said taxes shall be kept in the state treasury as a separate fund to be known as "the sheep inspection fund."

Duty of county auditor and treasurer.

§5. The county auditor must, on or before the first Monday in August of each year, prepare from the assessment book of each year, as corrected by the board of supervisors of each county and the state board of equalization, a statement showing the total number of all sheep assessed and the valuation of the same. The county treasurer must notify the state board of sheep commissioners of all moneys forwarded to the state treasurer belonging to the state sheep inspection fund at the time said moneys are forwarded to the state treasury. Also, make final report to the said board at the time he makes settlement with the state controller.

Employment of inspectors. Per diem of. Records.

§6. The board shall have charge of the enforcement of the provisions of this act, and of all rules and regulations made and adopted by it. The board shall employ such inspectors as may be necessary, and said inspectors shall file a bond in the sum of one thousand dollars (\$1,000), payable to the state, and conditioned for the faithful performance of their duties, and said bond shall be approved by the board. Such inspectors shall receive five dollars (\$5) per diem for each day's work actually performed, to be paid from the sheep inspection fund. The board must keep a book to be known as the inspection book in which they must enter their official acts. Such record must show every flock of sheep inspected, and the number contained therein, the time when and the place where the same was inspected.

Rights of inspectors. Quarantine.

§7. The inspectors and any member of the board shall have the right at all times to enter any premises, farm, field, pen, slaughter-house, building or car where any sheep are quartered for the purpose of examining them, in order to determine whether they are affected with the disease known as scabies. The board shall have the power to quarantine any corral, pen, slaughter-house, building or car where sheep may have been or are being handled, and compel the cleaning and disinfecting of the same when deemed necessary for the purposes of this act. When owners or persons in charge of such places shall, after forty-eight hours' written notice, refuse to clean or disinfect them, the inspector shall have the right to take charge of such places, cause the same to be cleaned and disinfected, and the expense of such cleaning and disinfection must be paid by the person in charge or the owner, and shall be a lien upon such premises, corrals, pens, slaughter-houses, buildings, cars, etc., until such expense is paid.

Reports of inspectors.

§ 8. Inspectors shall report to the board in writing and as often and at such times as may be requested by such board.

Duties of inspectors.

§ 9. Each inspector must inspect all the sheep within the district assigned to him, when so ordered by the board, and must make and issue a certificate or bill of health for all sheep whose owners have complied with the law and the orders, rules and regulations made and adopted by the board, describing the sheep, giving the number, together with the marks and brands thereon, which will entitle the owner or agent in charge to pass with such sheep from one district to another in this state. The inspector shall immediately file with the board in duplicate all certificates issued by him.

Scabies, when sheep are affected by.

§ 10. When sheep are found affected with scabies they must be quarantined where found, and the inspector must define the place, the limits within which such sheep may be grazed, herded or driven, and such sheep must be held in quarantine until pronounced cured from such disease by the state board of sheep commissioners. The expense of dipping, hand-dressing, spotting, feeding, and taking care of all sheep quarantined under the provisions of this act, must be paid for by the owner or agent in charge of such sheep; and such expense shall be a lien upon such sheep until paid.

Dipping of affected sheep.

§ 11. All sheep in the state affected with or exposed to "scabies" must be dipped at such time or times as may be ordered by the board; such dipping shall be done under the supervision of an inspector and the dip used in all such cases must be one approved by the state board of sheep commissioners; provided, however, that ewes due to lamb within thirty days shall not be subject to the provisions of this section.

Sheep in transit from other states.

§ 12. When any owner or person in charge of sheep shall bring such sheep into this state, upon entering from an adjoining state or territory for the purpose of grazing, he shall notify the board or any inspector in writing, of such fact immediately after entering the state, stating the time when, the place where such sheep did enter and the number of such sheep; provided, however, that the owner or person in charge of sheep in transit on the cars shall not be required to give notice unless they shall remain in the state or are unloading to feed or rest for a longer period than forty-eight hours.

Moving affected sheep.

§ 13. In no case shall any sheep affected with scabies be moved along the public highway or across the lands of another without a written permit from the board or an inspector.

Failure to observe rules of board.

§14. Any person owning or having charge of any public dipping vat, or vessel in which sheep are dipped, and every owner of sheep or agent in charge of them, who shall refuse or neglect after notice in writing to dip all sheep in the manner prescribed in the preceding sections or who shall willfully and intentionally fail to observe any and all rules and regulations made and adopted by the board in accordance with the provisions of this act, shall be guilty of a misdemeanor and shall be punished by a fine of not less than fifty (50) dollars.

Claims, how paid.

§15. All claims for salaries of the members of the board shall be paid out of the sheep inspection fund at the same time and in the same manner as the salaries of state officers are paid. All other claims and expenses authorized by this act shall be executed, approved, audited, allowed and paid at the same times and in the same manner as other claims against the state.

Misdemeanor.

§16. Any person who violates any provision of this act shall be guilty of a misdemeanor, and shall be punished by a fine not less than fifty dollars (\$50).

ACT 3623.

An act restricting the powers of boards of supervisors in the matter of imposing licenses upon the business of raising, grazing, herding and pasturing sheep.

[Approved March 22, 1909. Stats. 1909, p. 608.]

§1. No license or licenses greater than three cents per head shall be imposed by the board of supervisors of any county in this state on the business of raising, grazing, herding or pasturing sheep, and any and all licenses imposed by the board of supervisors of any county on the business of raising, grazing, herding or pasturing sheep, in excess of three cents per head, shall be and are hereby declared invalid; provided, the provisions of this act shall not apply to any license tax the validity of which is involved in any suit now pending or to any such license tax due when this act takes effect.

§2. Any license tax, imposed by any board of supervisors of any county in this state, upon the business of raising, grazing, herding or pasturing sheep, shall not be so construed and applied as to permit a license tax for or on account of lambs under eight months old.

§3. This act shall take effect immediately.

ACT 3624.

An act providing for the eradication of the disease known as scabies in sheep; providing for the duties of the state veterinarian in relation thereto; making certain acts in relation to sheep infected with

such disease a misdemeanor; providing for a lien against such sheep for expenses and costs in the extermination of such disease; making certain persons liable for a violation of this act, and providing for the enforcement of said lien. [Approved February 23, 1909. Stats. 1909, p. 53.]

TITLE 460.**SHERIFFS.****ACT 3627.**

To compensate sheriffs for conveying prisoners to the state prisons and insane persons to the insane asylum. [Stats. 1885, p. 126.]

Amended 1889, p. 200.

Superseded by Pol. Code, §§ 4175, 4176.

ACT 3628.

To authorize the boards of supervisors to furnish the sheriff and deputy sheriffs of their several counties with a suitable badge of office. [Stats. 1875-76, p. 803.]

Superseded by § 4046, Political Code, as added in 1907.

TITLE 461.**SHERMAN ISLAND.****ACT 3633.**

For the protection of public roads on. [Stats. 1877-78, p. 601.]

TITLE 462.**SHIPPING.****ACT 3638.**

To prevent persons from enticing seamen to desert. [Stats. 1853, p. 186.]

Superseded by Penal Code, §§ 644, 645.

TITLE 463.**SIERRA COUNTY.****ACT 3643.**

In relation to the county officers of. [Stats. 1869-70, p. 285.]

This act related to the fees and salaries of officers: See note to Act 1119, ante.

ACT 3644.

Road districts and road overseers. [Stats. 1875-76, p. 405.]

Repealed by Political Code, §§ 2641 and 2642, as amended in 1898, and the County Government Acts: See 1897, p. 452.

ACT 3645.

Road poll tax in. [Stats. 1875-76, p. 594.]

Repealed by Political Code, § 2652, as amended 1891, p. 478.

ACT 3646.

Supervisors to levy taxes for county purposes. [Stats. 1873-74, p. 510.]

Superseded by subds. 12 and 18, § 25, County Government Act, 1897, pp. 460, 463.

ACT 3647.

Concerning office of treasurer of. [Stats. 1871-72, p. 582.]

Repealed 1873-74, p. 185.

This act made the assessor ex officio treasurer.

ACT 3648.

Treasurer of. [Stats. 1873-74, p. 185.]

Repealed by County Government Acts: See 1897, p. 564, § 205.

TITLE 464.**SIERRA IRON COMPANY.****ACT 3653.**

Granting right to construct road in Sierra and Plumas counties. [Stats. 1873-74, p. 341.]

TITLE 465.**SILK CULTURE.****ACT 3658.**

To establish a state board of. [Stats. 1883, p. 369.]

Superseded 1885, p. 216.

ACT 3659.

To establish a state board of. [Stats. 1885, p. 216.]

TITLE 466.**SISKIYOU COUNTY.****ACT**

fees and salaries in. [Stats. 1869-70, p. 249.]

4, pp. 188, 719.

1119, ante.

and salaries of officers. [Stats. 1873-74, p. 188.]

and supplementing act of March 12, 1870. Supplemented 1873-1874, p. 188. Repealed by County Government Acts: See 1897, p. 452, and fee of 1895, p. 267.

and brands in. [Stats. 1865-66, p. 332.]

Legal Code, § 19, and Penal Code, § 23.

ACT 3667.

Creating board of water commissioners for. [Stats. 1865-66, p. 609.]

TITLE 467.**SMITH RIVER.****ACT 3672.**

Declaring Smith River navigable. [Stats. 1877-78, p. 799.]
Superseded by Political Code, § 2349, as amended 1891.

TITLE 468.**SOLANO COUNTY.****ACT 3677.**

To develop agricultural interests and aid the construction of a canal in Colusa, Solano, and Yolo counties. [Stats. 1865-66, p. 451.]

ACT 3678.

County seat, location of. [Stats. 1873-74, p. 783.]
Already located by Political Code, § 3956.

ACT 3679.

Highways in. [Stats. 1875-76, p. 316.]
Supplemented 1875-76, p. 617. Amended 1877-78, p. 598. Repealed 1883, c. X, § 2.

ACT 3680.

Branch county jail, establishing and maintaining. [Stats. 1875-76, p. 530.]

ACT 3681.

To provide for the appointment of two additional notaries for. [Stats. 1871-72, p. 24.]
Superseded by Political Code, § 791.

ACT 3682.

County recorder made ex officio auditor. [Stats. 1875-76, p. 14.]
Repealed 1877-78, p. 156.

ACT 3683.

Salaries of officers of, regulating. [Stats. 1873-74, p. 869.]
Amended 1875-76, p. 56; 1877-78, p. 536. Repealed by County Government Acts: See 1897, p. 519, § 169.

ACT 3684.

To better define the duties and fix the compensation of certain officers of. [Stats. 1871-72, p. 624.]
Repealed by County Government Act, 1897, p. 519, § 169.
This act affected the duties of sheriff, county clerk, district attorney, and auditor.

ACT 3685.

Supervisors to levy a road tax. [Stats. 1873-74, p. 868.]

Superseded by County Government Act, § 25, subds. 12 and 18, 1897, pp. 460, 465.

ACT 3686.

Legalizing records of. [Stats. 1857, p. 159.]

ACT 3687.

Authorizing transcribing records in. [Stats. 1859, p. 66.]

ACT 3688.

Title to certain lands in, quieting. [Stats. 1873-74, p. 329.]

This act related to certain lands in the Suscol Rancho.

TITLE 469.**SOLDIERS AND SAILORS.****ACT 3692.**

An act permitting all ex-Union soldiers and sailors of the Civil War, honorably discharged from the military or marine service of the United States, shall be permitted to vend, hawk and peddle goods, wares, fruits or merchandise not prohibited by law, in any county, town, village, incorporated city or municipality in the state of California, without paying a license.

[Approved March 20, 1905. Stats. 1905, p. 307.]

§ 1. That on and after the passage of this act all ex-Union soldiers and sailors, honorably discharged from the military or marine service of the United States, shall be permitted to vend, hawk, and peddle goods, wares, fruits or merchandise not prohibited by law, in any county, town, village, incorporated city or municipality within this state without a license: provided, said soldier or sailor is engaged in the vending, hawking and peddling of the goods, wares, fruits or merchandise for himself only.

§ 2. Upon the presentation of his certificate of discharge to the license collector of any county, town, village, incorporated city or municipality in this state, and showing proofs of his identity as the person named in his certificate of honorable discharge, the license collector shall issue to said ex-Union soldier or sailor a license, but such license shall be free, and said license collector shall not collect or demand for the county, town, village, incorporated city or municipality any fee therefor; provided, that nothing in this act shall authorize said soldiers or sailors to sell intoxicating liquors.

§ 3. This act shall take effect and be in force from and after its passage.

Such board may adopt a seal which shall read, "Seal of the Leland Stanford Junior University," and such seal, when attached to any document or writing, shall be prima facie evidence that such document or writing was made by and under due authority from such board and from such trustees.

Nothing herein shall be deemed to alter the tenure or limit the powers or obligations of such trustees.

§ 2. This act shall take effect from its passage.

TITLE 478.

STANISLAUS COUNTY.

ACT 3760.

Protection of agriculture in, and providing for distraining of trespassing animals. [Stats. 1877-78, p. 164.]

Modified, if not repealed, by the estray laws of 1897, p. 198, and 1901, p. 603.

ACT 3761.

Establishing a public highway and ferry on San Joaquin River. [Stats. 1871-72, p. 584.]

Superseded by subd. 85, § 25, County Government Act, 1897, p. 466.

ACT 3762.

Additional notaries public. [Stats. 1873-74, p. 108.]

Repealed by Political Code, § 791.

This act provided for the appointment of five additional notaries.

ACT 3763.

Offices of public administrator, coroner, and superintendent of schools. [Stats. 1873-74, p. 537.]

Repealed by County Government Acts: See 1897, p. 452.

ACT 3764.

Separating office of county recorder from office of county clerk, and regulating salaries of certain officers. [Stats. 1873-74, p. 277.]

Amended 1873-74, p. 448; 1877-78, p. 1001. Superseded by County Government Acts: See 1897, p. 452.

ACT 3765.

To provide for the extermination of squirrels in. [Stats. 1877-78, p. 787.]

Repealed 1880, p. 7.

ACT 3766.

County superintendent of schools, compensation of. [Stats. 1873-74, p. 537.]

Repealed by County Government Acts: See 1897, p. 550, § 191.

TITLE 475.

SPANISH LAND CLAIMS.

ACT 3744.

Providing for the preservation of papers relating to. [Stats. 1865-66, p. 312.]

TITLE 476.

STALLIONS.

ACT 3749.

To provide for the keeping of stallions and jacks. [Stats. 1871-72, p. 63.]

Codified by § 597g of Penal Code: See note to § 597g, Penal Code.

This act prescribed limits for the keeping of stallions and jacks unless they were inclosed from view.

TITLE 477.

STANFORD UNIVERSITY.

ACT 3754.

An act exempting from taxation a portion of the property held in trust for the benefit of the Leland Stanford Junior University.

[Approved February 14, 1901. Stats. 1901, p. 4.]

Amended 1907, p. 117.

§ 1. The university buildings of the Leland Stanford Junior University, situate in the county of Santa Clara, state of California, used for university purposes, and all bonds held or that may be held by the trustees of such university in trust for the benefit of such university, shall be exempt from taxation; provided, that all other property, real and personal, held in trust for the benefit of such university, shall be subject to state, county and municipal taxation; and provided further, that while this act is in force no fees shall be charged residents of this state for tuition at such university, except that such fees may be charged in professional and engineering courses, but no such fees shall be charged to any student who is registered in any of such courses when this act takes effect. [Amendment approved March 6, 1907. Stats. 1907, p. 117. In effect immediately.]

§ 2. This act shall take effect from its passage.

ACT 3755.

An act granting to the trustees of the Leland Stanford Junior University corporate powers and privileges.

[Approved February 14, 1901. Stats. 1901, p. 4.]

§ 1. The trustees of the Leland Stanford Junior University are given the right to exercise corporate powers and privileges, and to that end they may organize and act as a board of trustees, elect such officers of such board as they may deem to be necessary, adopt by-laws, and as such board, and through the officers thereof, they may transact such business, perform such acts and exercise such powers as they in writing may provide may be transacted, performed and exercised by such board.

ACT 3784.

Ceding to the United States jurisdiction over certain lands ceded to the United States. [Stats. 1891, p. 262.]

ACT 3785.

Giving consent of to reservation of certain lands by Congress. [Stats. 1891, p. 107.]

This act gave the consent of the state to the reservation of a certain tract by Congress for a public park.

ACT 3786.

Expressing the assent of to the act of Congress of August 30, 1890, to apply a portion of the proceeds from the public lands to the more complete endowment and support of the colleges for the benefit of agriculture and the mechanic arts established under the provisions of an act of Congress approved 1862. [Stats. 1891, p. 458.]

ACT 3787.

Appropriation to pay the claim of A. J. Bourn against the state for personal injuries received by him while in the service of the state. [Stats. 1891, p. 513.]

Unconstitutional: Bourn v. Hart, 98 Cal. 321.

ACT 3788.

To authorize Robert C. Ball to sue the state. [Stats. 1891, p. 194.]

ACT 3789.

Enabling the Coulterville and Yosemite Turnpike Company to sue the state. [Stats. 1891, p. 275.]

ACT 3790.

Suit against state, authorizing certain persons to bring. [Stats. 1875-76, p. 680.]

This act authorized Drury Melone, John Lord Love, and James J. Green to sue the state.

ACT 3791.

To authorize suits against the state, and regulating the procedure therein. [Stats. 1893, p. 57.]

Citations. Cal. 104/698; 109/379, 380; 121/21, 23, 211, 212; 138/385; 189/404, 405, 409; 144/690, 691, 692; 154/722.

See Molineux v. State, 109 Cal. 378; Chapman v. State, 104 Cal. 690.

This act appears in full in Code of Civil Procedure, Appendix, p. 867.

ACT 3792.

An act authorizing suits against the state on claims or demands arising under an act of the legislature entitled "An act fixing a bounty on coyote scalps," approved March 31, 1891, and regulating the procedure therein.

[Approved March 23, 1901. Stats. 1901, p. 646.]

Citations. Cal. 141/355, 356; 144/683, 688, 689, 690, 692, 693, 699, 701, 741, 746.

ACT 3767.

Superintendent of schools, act to provide office for. [Stats. 1871-72, p. 35.]

ACT 3768.

Road poll taxes, collection of. [Stats. 1875-76, p. 570.]

Repealed by Political Code, § 2652, as amended 1891, p. 478.

ACT 3769.

Treasurer to transfer certain funds. [Stats. 1875-76, p. 270.]

Superseded by subd. 18, § 25, County Government Act, 1897, p. 463.

This act authorized the transfer from the swamp and overflowed fund to the general fund.

ACT 3770.

Regulating salary of treasurer of. [Stats. 1871-72, p. 183.]

Superseded by County Government Act, 1897, p. 550, § 191, as amended 1901, p. 171.

ACT 3771.

Witness fees in. [Stats. 1873-74, p. 732.]

Repealed 1875-76, p. 498.

TITLE 479.**STANISLAUS RIVER.****ACT 3776.**

To establish, maintain, and protect a public ford across, and a public road to and from the same. [Stats. 1871-72, p. 283.]

TITLE 480.**STATE.****ACT 3780.**

To define and establish a portion of the eastern boundary. [Stats. 1901, p. 89.]

See ante, Act 397.

ACT 3781.

In relation to costs in actions where state is a party. [Stats. 1852, p. 160.]

Superseded by Code of Civil Procedure, § 1038.

ACT 3782.

To provide for the receipt and appropriation of donations to. [Stats. 1880, p. 20.]

Superseded by Pol. Code, §§ 458a and 4052a.

ACT 3783.

Release of claim by to certain lands. [Stats. 1871-72, p. 948.]

This act provided for the release of certain lands to the United States government.

TITLE 481.**STATE ANALYST.****ACT 3799.**

To provide for analyzing the minerals, mineral waters and other liquids and the medicinal plants of the state of California, and of foods and drugs to prevent the adulteration of the same. [Stats. 1885, p. 43.]

In full in Appendix to Political Code, tit. "State Analyst," p. 1478.

TITLE 482.**STATE CAPITOL.****ACT 3804.**

To provide for permanent location of seat of government at Sacramento. [Stats. 1854, p. 21.]

Superseded by constitution, art. XX, § 1.

ACT 3805.

Authorizing issuance of state bonds for. [Stats. 1871-72, p. 694.]

This act authorized the issuance of bonds to the amount of \$250,000.

ACT 3806.

Employees at. [Stats. 1873-74, p. 937.]

Amended 1880, p. 107; 1889, p. 449.

ACT 3807.

An act authorizing and directing the board of state capitol commissioners to remodel and repair the state capitol building, making the same fireproof, rendering all space therein available, and making an appropriation therefor. [Stats. 1905, p. 177.]

TITLE 483.**STATE ENGINEERING.****ACT 3811.**

To provide a system of irrigation, promote rapid drainage, and improve the navigation of the Sacramento and San Joaquin rivers. [Stats. 1877-78, p. 634.]

Amended 1889, p. 328, c. COXVIII, which renders the statute inoperative.

This act created the office of state engineer.

ACT 3812.

An act to create for the state of California a department of engineering, to provide for the appointment of the officers and employees thereof, defining its powers and prescribing the duties of said department, its officers and employees, to provide the compensation of such officers and employees, to make an appropriation for the salaries and other expenses for the remainder of the fifty-eighth fiscal year and making certain acts a felony and repealing an act

§ 1. The owners or holders of claims or demands against this state arising under the provisions of an act of the legislature entitled "An act fixing a bounty on coyote scalps," approved March thirty-first, eighteen hundred and ninety-one, may, within twelve months from the passage of this act, bring suit upon their said claims or demands in any superior court of this state, and prosecute the same to final judgment. The rules of practice in civil cases shall apply to such suits, except as herein otherwise provided, with the right of appeal to either party.

§ 2. Service of summons in such suits shall be made on the attorney general. It shall be the duty of the attorney general to defend all such suits; and upon his written demand, made at or before the time of answering, the place of trial of any such suit must be changed to the county of Sacramento.

§ 3. All costs in any suit brought hereunder shall be paid by the plaintiff in the action; and in case judgment therein be for the plaintiff, it shall be for the amount actually found due to the plaintiff, without interest thereon and without costs; and such judgment shall bear no interest after rendition.

§ 4. It shall be the duty of the attorney general to report to the legislature at its next ensuing session all final judgments recovered against the state hereunder, not theretofore reported.

§ 5. This act shall take effect immediately.

ACT 3793.

An act to authorize suits against the state concerning certain real property, and regulating the procedure therein. [Approved March 8, 1901. Stats. 1901, p. 111.]

The property involved in this act was property sold to one A. H. Estell and constituted a portion of the 500,000 acre grant.

ACT 3794.

An act authorizing suits against the state concerning certain real property and regulating the procedure therein. [Approved March 20, 1909. Stats. 1909, p. 605.]

This act authorized suits to quiet title against the state of California where the state had sold land and the deed or patent from the state had been lost or destroyed and was never recorded in the office of any county recorder.

This act appears in full in Code of Civil Procedure, Appendix, p. 869.

ACT 3795.

An act to authorize the Lauritzen Company of San Francisco, a corporation, to sue the state of California. [Approved March 23, 1907. Stats. 1907, p. 904.]

ACT 3796.

An act authorizing suits against the state concerning certain real property and regulating the procedure therein. [Stats. 1909, p. 84.]

be known as a consulting board to the department of state engineering upon all matters that affect irrigation, drainage and river improvement.

Such board shall be appointed from citizens of either the Sacramento or San Joaquin valleys. Such board shall meet at such times as the work requires and shall meet at least once in two months. They may report to the advisory board upon all matters relating to irrigation, drainage and river improvement together with their conclusion thereon, and may render a report to the advisory board upon all plans for river improvements.

State engineer. Duties.

§ 2. Upon this act becoming effective the governor, by and with the advice and consent of the senate shall appoint a competent civil engineer as the head of the department of engineering, and such person shall be known as the state engineer. The state engineer shall devote his entire time to the services of the state and shall not actively engage in any other pursuit while serving as such state official. He shall have charge of all the engineering and structural work of the department and may receive by and through the approval of the advisory board such special assistance of a technical character beyond the employees hereinafter specified as they shall allow for the proper conduct of the business of the department.

Term of office.

§ 3. The state engineer shall hold office for the term of four years from and after the date of qualification, provided, however, when a vacancy occurs in the office of state engineer from whatever cause, the governor shall fill, by appointment, said term for the unexpired part thereof only. Immediately after qualifying, the advisory board shall meet and organize and shall adopt a seal for the authentication of its acts and records.

Bond of engineer.

§ 4. Within twenty days after receiving notice of appointment the person appointed as state engineer shall file a bond in the sum of twenty thousand dollars (\$20,000) with at least two sufficient sureties thereon or with a surety company of recognized standing for the faithful performance of his duties which bond must be approved by the governor and filed with the secretary of state and he shall qualify by taking the oath of office as prescribed for other state officers.

Office of department.

§ 5. The office of the department of engineering shall be in the state capitol; and the secretary of state shall assign to the department, for its use, such rooms as may be necessary for its accommodation. All of the regular meetings of the advisory board shall be held at such office. The said board may, however, hold such special meetings at such places as the duties of the department, or the best interests of the state may require. The state board of harbor commissioners for the port of San

Francisco shall assign proper rooms in the Ferry Building at San Francisco for the use of one assistant state engineer and his necessary office help.

Assistants to state engineer. Salaries. Eligibility.

§ 6. The department of engineering by and through the state engineer shall have the power to appoint two assistant engineers, one state architect, one architectural designer, three architectural draughtsmen, two engineers draughtsmen, one testing engineer, one mechanical engineer, two filing clerks, one blue-print pressman, a secretary, two clerks and stenographers and one porter and messenger, and such additional technical assistance and help as the advisory board may in their judgment deem necessary, and to fix their salaries and compensation, who shall hold office at the pleasure of the appointive power, and who must be confirmed by the advisory board before proceeding with their duties. Such officers and employes shall not be eligible for appointment unless they possess special qualifications for and are competent to perform the duties devolving upon them, and they shall devote their entire time to the service of the department. [Amendment approved March 20, 1909. Stats. 1909, p. 558. In effect immediately.]

Advisory board, meetings, and duties. Plans for public works. May provide for work by day labor.

§ 7. The advisory board shall meet at such times as the work of the department may require and shall meet at least once in two months. Said board shall advise with the state engineer and state architect as necessity requires and may advise with the boards of managers or trustees of the various state institutions requiring engineering or structural work and with any state commission regarding all works wherein such commission may be interested. The advisory board shall approve all plans and specifications for all public work and shall determine the kind, quality and extent of all public work of the state. All boards of managers, trustees and state commissions of state institutions shall apply to the department of engineering for plans and specifications for all public works coming under their charge and before accepting any work done under contract shall have a certificate from the state engineer who shall examine and certify to its completion. All public work coming under the full control of the department of engineering may upon the discretion of the advisory board be either contracted for or done by day's labor. The advisory board shall have the power, on the approval of plans and specifications by the state engineer, to direct whether any building or structure at any state institution shall be let by contract in part or in whole, or whether said building or structure shall be built by days labor in part or in whole, but after approval of the plans, specifications and estimates by the advisory board of the department of engineering, if, in the opinion of such department of engineering, the acceptance of any bid or bids shall not be for the best interests of the state, or if in the opinion of such department of engineering the acceptance of any further bids after the rejection of all

bids submitted shall not be for the best interests of the state, it may be legal for them to direct that the work or improvement of any state building, road or any other improvement be done upon a day's labor basis. Whenever any public work to be done by the state except work on property of the state on the water front of the city and county of San Francisco under the jurisdiction of the board of state harbor commissioners is placed upon a day's labor basis, it is especially exempted from any law on or relating to contracts of the state. The full control of such day's labor work is placed under the department of engineering and said department shall do all things necessary to properly carry out the work. When such work is so placed upon a day's labor basis, any appropriation which is now available, or which is now or may be appropriated to become available, is by this act taken out of the control of any board of trustees, directors, commissioners, officers or other body to whom it has been appropriated, and placed exclusively under the control of the department of engineering, and the claims for said work shall be approved by the department of engineering, and audited by the board of examiners, upon whose audit the controller shall draw his warrant and the treasurer shall pay the same. The department of engineering shall have the power to receive informal bids upon any subdivision of the day's labor work and the state engineer may upon the approval of the advisory board enter into an agreement for any such subdivisional work of the day's labor work. [Amendment approved March 20, 1909. Stats. 1909, p. 560. In effect immediately.]

Supersedes board of public works. River and harbor improvements.

§ 8. The full control of all public work being done or now completed by the board of public works shall be assumed by the department of engineering and all public work done by the state, except as otherwise provided for by law, shall be under the full control of the said department. It shall be the duty of the department of engineering whenever required by the advisory board to make examinations of lands subject to inundation and overflow by flood waters and of the waters causing such inundation or overflow and plans and estimates of the cost for works to regulate and control such flood waters. All matters of drainage, and improving and rectifying river channels and other work on any river or slough flowing into San Francisco Bay, San Pablo Bay and Suisun Bay, and also the tide waters flowing into said bays, shall be placed under the management and control of the department of engineering whenever the law provides therefor. The department of engineering shall have charge of all expenditures, unless otherwise provided by law for all public works relating to general river and harbor improvements, including reclamation and drainage of lands. It may purchase, construct and operate one or more dredges or any other needed appliances to promote or properly carry out the work of the department. The state engineer in the name of the state of California, may obtain or condemn any right of way necessary for any construction herein named and shall proceed if necessary, to condemn under the terms of the Code of Civil Procedure relating to such proceedings. The

department shall have the power to employ such additional help for the performance of the work of this section as the advisory board shall order and all money now appropriated to the board of public works and remaining unexpended shall be used for the purposes intended by the law, by the department of engineering, and the state controller shall transfer said funds to the credit of the department of engineering. Wherever under any statutes of this state any duty or obligation the performance of which is imposed upon the commissioner of public works or the auditing board to the commissioner of public works, the same shall be assumed and the performance of the same shall devolve upon the department of engineering.

Control of state highways.

§ 9. The department of engineering shall take full possession and control of all roads which have been declared state highways enumerated as follows: The Lake Tahoe wagon road, the Sonora and Mono road, the Mono Lake Basin road and all other state highways which may hereafter be constructed and all public work being done or now completed by the department of highways. All expenditures by the state for highway purposes except as otherwise hereafter provided by law shall be under the full charge of the department of engineering, and all moneys appropriated for such purpose shall be made payable upon the proper order of said department and shall be audited by the state board of examiners. The department of engineering, through its state engineer, shall have the power to obtain or condemn necessary rights of way for the change of any existing state highway or for any road placed under the department's charge by law unless otherwise provided. It shall have power to alter or change the route of a road and shall do all things necessary, and obtain all tools and implements required to properly care for and manage the roads under the charge of the department. The department may, in its discretion, appoint superintendents of the state highways who shall hold office at the pleasure of the appointive power. They shall, however, be confirmed by the advisory board and shall be specially qualified in road work. All unexpended balances of money now existing by law for improvements or maintenance of whatever kind under the department of highways, and the Lake Tahoe wagon road commissioner shall be placed under the control of the department of engineering, and the state controller shall transfer said funds to the credit of the department of engineering. Wherever under any statutes of this state any duty or obligation the performance of which is imposed upon the department of highways, the same shall be assumed and the performance of the same shall devolve upon the department of engineering.

Examine highway conditions. Analyze road materials. Forms of books.

§ 10. The department of engineering shall make examination into existing highway conditions in the state of California, and shall, furthermore, make such investigations within the state as will put at the service of the state the most approved methods of highway improvement. It

shall supply, on request, without charge, any information relative to highways required by any county or district official having care of and authority over highways within this state. It shall collect and collate data relating to the geological formation of the state in so far as it relates to material suitable for highway construction, and make analyses and tests of such material as it may deem suitable for highway uses, with the view of determining the value of the same for such purposes. All data so collected, together with such other matters of value or interest to the people of the state, shall be published in bulletins, or upon maps or diagrams, or in other proper form, or in the biennial report of the department, as it, in its discretion, shall determine. The department shall prepare and adopt styles and forms of books for use by officials, in which to keep account of the expenditure of highway money and all other records or proceedings relating to highways. It shall prepare such forms as may be necessary for use in connection with opening, abandoning, altering, locating, constructing, maintaining, obtaining title to, or otherwise relating to proposed state highways; and such books and forms, when so adopted, shall be the standard for use in the state. Copies of them shall be forwarded to the various officials who are charged with keeping or using the same, and such officials shall immediately prepare books and forms after the style shown by such standard, and shall thereafter use them exclusively for the purposes for which they are intended. It shall be the duty of the department to adopt such general forms for the surveying of state highways, mapping, and keeping of the notes thereof, and the permanent marking of the same on the ground, as it shall deem necessary, and shall issue instructions defining such general forms and markings to the person having charge of the making of such surveys; and it shall thereafter be the duty of such persons to follow the methods prescribed in such instructions. The department of engineering, in performance of its duties, shall have the power to call upon any state, county, or district official to furnish it with any information contained in his office which relates to or is in any way necessary to the proper performance of the work of said department; and it is hereby made the duty of such officials to furnish such information without cost.

Architectural work of state.

§ 11. All architectural work of the department shall be under the charge of the state architect, and it shall be the duty of said architect to make plans and specifications and estimates for all state building work. He shall, in company with the state engineer, visit and inspect all completed work and shall certify to the state engineer its proper or improper completion. The state architect shall have general charge under the state engineer, of the erection of all buildings and must have an inspector at each building during the whole time of its construction.

One assistant engineer to be assigned to San Francisco harbor. Register of work. Draughtsman to harbor board.

§ 12. One assistant state engineer shall be assigned to the state board of harbor commissioners at San Francisco, where he shall have an office.

He shall prepare such plans and specifications as the board may direct and if adopted and the work ordered by the board to be done, must superintend its construction. He must give constant attention to the condition of the seawall and thoroughfare, of the sheds, wharves, piers and landings, of the streets or parts thereof under the jurisdiction of the board and when repairs are needed, must forthwith report to the board in writing their nature and extent, and if ordered by the board, must have the same done at once. He must keep himself informed as to the depth of water in the various docks and slips and report to the board from time to time what dredging is required. He must keep a register properly indexed, showing the date, place and character of every piece of work done and dock dredged, when begun and finished, with proper descriptions and drawings. He shall do all engineering work required by the said board of harbor commissioners. Said assistant engineer shall be subject to the control, at all times, of the state engineer, and a copy of all work under his charge as assistant engineer shall be filed in the office of the department of engineering. A complete record of cost in detail, of all work done under the supervision of this assistant engineer shall be filed with the department of engineering upon the completion thereof. One engineer's draughtsman shall be assigned to the said harbor board by the state engineer, and the advisory board of the department of engineering shall employ such field and other assistants to the foregoing assistant state engineer as may be necessary and such field and other assistants shall be paid from the San Francisco harbor improvement fund.

Co-operative work with United States government. Transfer of funds.

§ 13. All co-operative engineering work now existing or to be engaged in by the state with the United States government shall be placed under the department of engineering. All plans, estimates and specifications shall be approved by the state engineer and the advisory board shall have full power to determine the kind, quality and extent of such work under co-operation with said government before entering into agreement with said government for such work. All unexpended moneys provided for by law on the aforesaid co-operative basis shall be expressly placed under the full control of the department of engineering, and the state controller shall transfer such funds to the credit of the said department. Hereafter plans, estimates and specifications for such work shall be filed in the office of the said department.

Impounding of debris from mines. State engineer to advise with debris commission.

§ 14. It shall be the duty of the state engineer to consult and advise with the members of the corps of engineers of the United States army comprising the California debris commission (created by act of Congress, approved March first, eighteen hundred and ninety-three), in relation to the construction of works for the restraining and impounding of debris resulting from mining operations, natural erosion, or other causes; and it shall be his duty to examine such works and to report the result of such examination to the advisory board. Said state engineer is fur-

ther authorized and directed to consult and advise with said "California Debris Commission" in relation to any and all plans and specifications that may have been or may hereafter be prepared or adopted by said "California Debris Commission," for the construction of such restraining or impounding works, and said state engineer shall file a copy of all such plans and specifications in the office of the department. Whenever the advisory board approves said plans and specifications the state engineer shall notify the "California Debris Commission." Whenever said "California Debris Commission" or the government of the United States shall have entered into any contract for the construction of works for the purposes described in this act, in pursuance of plans and specifications that have been theretofore approved by the advisory board as in this act provided, it shall then be the duty of the state engineer to cause such work to be carefully inspected during the progress of their construction and to keep a record of the result of such inspection. Said state engineer shall also from time to time, during the progress of the construction of such works, when requested so to do by the said "California Debris Commission," present his claims to the state board of examiners in favor of such person or persons as may be designated by said "California Debris Commission" for such amounts as shall equal one-half of the cost of the construction of said works; and said state engineer shall in like manner, and when requested so to do by said "California Debris Commission," present his claims to the state board of examiners for an amount equal one-half the purchase price of any site or sites necessary for the construction of said works; provided, that the purchase of said site or sites shall have been first approved by the advisory board. All unexpended balances of money provided by law for the work under the debris commissioner shall be placed to the credit of the department of engineering by the state controller. Whenever under any statutes of the state any duty or obligation the performance of which is imposed upon the debris commissioner, the same shall be assumed and the performance of the same shall devolve upon the department of engineering.

Assistance on public works, employment of. How paid. Reports of inspectors.

§ 15. When in his judgment it is deemed necessary, the state engineer, subject to the approval of the advisory board, shall employ such assistance on the public work of the state or on public work at any state institution as may be necessary for the proper discharge of his duties, and shall under like restrictions, have the authority to purchase any supplies, instruments, tools and conveniences as may be necessary for the proper discharge of the duties of the department of engineering. All employees of the department of engineering, when employed upon public work at or for any state institution in this state shall be paid, unless otherwise provided, from the revolving fund hereinafter created, and the amount of such payment shall be a charge against the institution for which such work is performed, and when collected from said institution by the department of engineering, shall be paid into said

revolving fund. In all other cases such employees shall be paid by the department of engineering. All inspectors employed by the state engineer on any public work shall render to the state engineer a full, true and correct report of the kind, manner and progress of all work upon which he is such inspector. Any inspector who shall render a false report knowing the same to be false shall be guilty of a felony. It shall be the duty of the state engineer to keep a full, true and correct detailed account of the cost of all work done under the control of the department of engineering, and with the consent of the advisory board, may employ a clerk for the proper compiling thereof. Such accounts shall be always open to the inspection of the public. [Amendment approved March 20, 1909. Stats. 1909, p. 561. In effect immediately.]

Biennial report of engineer. Duty of state printer.

§ 16. The state engineer shall prepare biennial reports which shall be submitted to the governor at least thirty days before each session of the legislature. Said report shall embrace the work and investigations of the department under his charge for the previous two years, together with such recommendations for changes in the laws affecting the department as he may deem advisable, and shall suggest and recommend changes relating to the road systems or administration within the state. It shall be the duty of the state printer to print all reports, bulletins or other matter and furnish any other necessary illustrations or diagram therefor as the department may deem necessary, all of which shall however, be subject to the approval of the state board of examiners.

Salaries of engineers and assistants. How paid. Bonds. Oath of office. Traveling expenses.

§ 17. The state engineer shall receive the sum of five thousand dollars (\$5,000) per annum; each assistant state engineer shall receive three thousand dollars (\$3,000) per annum; the state architect shall receive forty-eight hundred dollars (\$4800) per annum; each of the five draughtsmen shall receive two thousand dollars (\$2,000) per annum; the architectural designer shall receive twenty-four hundred dollars (\$2400) per annum; the mechanical engineer shall receive twenty-seven hundred dollars (\$2700) per annum; the testing engineer shall receive twenty-one hundred dollars (\$2100) per annum; each of two filing clerks shall receive eighteen hundred dollars (\$1800) per annum; the secretary shall receive twenty-four hundred dollars (\$2400) per annum; the blue-print pressman shall receive fifteen hundred dollars (\$1500) per annum; each clerk and stenographer shall receive fifteen hundred dollars (\$1500) per annum, and the porter and messenger shall receive nine hundred dollars (\$900) per annum. Such salaries shall be paid at the same time and in the same manner as are the salaries of other state officers. The two assistant state engineers and the state architect shall each furnish the state with a bond in the sum of ten thousand dollars (\$10,000) for the faithful performance of their duties. Said bonds must be approved by the governor of the state of California and filed in the office of the secretary of state. Each and every one of the above-men-

tioned officers shall take the oath of office as prescribed for other state officers. The members of the advisory board, the state engineer and the officers and employees of the department of engineering shall be allowed their necessary traveling expenses while engaged in the discharge of their duties within the state. [Amendment approved March 20, 1909. Stats. 1909, p. 562. In effect immediately.]

Auditing of bills. Attorney general is legal adviser.

§ 18. The state board of examiners shall audit all bills or claims incurred by the department of engineering and the state engineer shall present claims to said board for all expenditures directly under his charge. The attorney general of the state shall be the legal adviser of the department of engineering and the said department shall call upon the attorney general of the state for all such legal advice and services as the discharge of its duties may require.

Appropriation for salaries.

§ 19. The sum of \$10,000 is hereby appropriated out of any money in the state treasury not otherwise appropriated to provide and maintain a permanent revolving fund for the payment of the salaries and wages of employees in the department of engineering when employed upon public work at or for any state institution other than those employees whose salaries are fixed and determined by section 17 of this act. Such payment so made for salaries and wages shall be charged against the institution for which such work is performed and in favor of the department of engineering, and when collected by said department, shall be paid into the revolving fund hereby created. [Amendment approved March 20, 1909. Stats. 1909, p. 562. In effect immediately.]

Certain commissions to transfer all their property.

§ 20. It shall be the duty of the auditing board to the commissioner of public works, the commissioner of public works, the state highway commissioner, the debris commissioner and the Lake Tahoe wagon road commissioner to transfer to the state controller all of the property, books, reports and papers and maps of every description which is state property, and the said controller shall transfer all of said things and property to the department of engineering.

Repeal of act creating commissioner of public works.

§ 21. An act entitled "An act creating a commissioner of public works, defining his duties and powers and fixing his compensation," approved February ninth, nineteen hundred, and all acts or parts of acts amendatory thereof are hereby expressly repealed.

Repeal of act creating department of highways.

§ 22. An act entitled "An act to create a department of highways for the state of California, to define its duties and powers, to provide for the appointment of officers and employees thereof, and to provide for the compensation of said officers and employees, and for the additional expenses of said department, and to make an appropriation therefor for

the remainder of the forty-eighth fiscal year," approved April first, eighteen hundred and ninety-seven, is hereby expressly repealed.

Repeal of act creating auditing board.

§ 23. An act entitled "An act providing for the appointment of an auditing board to the commissioner of public works, authorizing and directing him and them to perform certain duties relating to drainage, to purchase machinery, tools, dredges, and appliances therefor, to improve and rectify water channels, to erect works necessary and incident to said drainage, to condemn land and property for the purposes aforesaid, making certain acts a felony, and making an appropriation of money for the purposes of this act," approved March seventeen, eighteen hundred and ninety-seven, and all acts or parts of acts amendatory thereof are hereby expressly repealed.

Repeal of act creating debris commissioner.

§ 24. An act entitled "An act to provide for the appointment, duties and compensation of a debris commissioner, and to make an appropriation to be expended under his directions in the discharge of his duties as such commissioner," approved March twenty-fourth, eighteen hundred and ninety-three, and all acts or parts of acts amendatory thereof are hereby expressly repealed.

Repeal of act creating Lake Tahoe wagon road commissioner.

§ 25. An act entitled "An act to create the office of Lake Tahoe wagon road commissioner, providing the term of office and compensation of such commissioner, defining its duties, and making an appropriation for the salary and expenditures provided for and authorized by this act," approved April first, eighteen hundred and ninety-seven, and all acts or parts of acts amendatory thereof are hereby expressly repealed.

§ 26. All acts or parts of acts in conflict with the provisions of this act are hereby repealed.

ACT 3813.

An act providing for topographic surveys and investigations of the water resources of the state and making an appropriation therefor.

[Approved April 22, 1909. Stats. 1909, p. 1079.]

§ 1. The department of engineering is hereby empowered to carry on topographic surveys and investigations into matters pertaining to the water resources of the state along the lines of hydrography, hydro-economics and the use and distribution of water for agricultural purposes, and to that end, where possible and to the best interest of the state, shall enter into contracts for co-operation with the different departments of the federal government in such amounts as may be an equitable and necessary division of the work. The state engineer, with the consent of the governor, may maintain and continue such investigations where there is available money not covered by co-operation con-

tract. For the permanent maintenance of said surveys and investigations there is hereby continuously appropriated out of the general fund of the state treasury for each and every fiscal year, commencing with the date upon which this act becomes effective, the sum of thirty thousand dollars.

§ 2. This act shall take effect immediately.

ACT 3814.

An act appropriating money to be expended by and under the direction of the department of engineering for the purpose of rectifying the channels of the Sacramento, San Joaquin and Feather rivers, and other river channels of the state, and improving the navigability of such streams. [Approved April 12, 1909. Stats. 1909, p. 850.]

This act appropriated \$150,000 for the purposes indicated.

ACT 3815.

An act appropriating money to be expended by and under the direction of the department of engineering for the purpose of rectifying the channels of the Sacramento, San Joaquin and Feather rivers, and other river channels of the state, and in improving the navigability of such streams. [Approved March 21, 1907. Stats. 1907, p. 849.]

This act appropriated \$125,000 for the purposes indicated.

ACT 3816.

An act to provide for the accomplishment of the work of the direct improvement of the navigation of the Sacramento, San Joaquin and Feather rivers of the state of California as recommended in the special report of the California debris commission, dated June 30, 1907, and made jointly by John Biddle, lieutenant-colonel, corps of engineers, C. H. McKinstry, major, corps of engineers, and Thomas H. Jackson, captain, corps of engineers, of the United States army, and printed with the annual report of the chief of engineers of the United States army, for the fiscal year ending June 30, 1907, and making an appropriation for such work. [Approved March 10, 1909. Stats. 1909, p. 249.]

This act appropriated \$400,000 for the purposes indicated.

ACT 3817.

An act to provide for the accomplishment of the work of the direct improvement of the navigation of the Sacramento, San Joaquin and Feather rivers of the state of California, as recommended in the special report of the California debris commission, dated June 30, 1907, and made jointly by Brigadier General A. Mackenzie, chief of engineers, C. H. McKinstry, major, corps of engineers, and Thomas H. Jackson, captain, corps of engineers, of the United States army, and printed with the annual report of the chief of engineers of the United States army, for the fiscal year ending

June 30, 1907, and making an appropriation for such work. [Approved February 12, 1909. Stats. 1909, p. 14.]

Repealed 1909, p. 754.

This act appropriated \$400,000 for the purposes indicated.

TITLE 484.

STATE FLOWER.

ACT 3819.

An act to select and adopt the "golden poppy" as the state flower of California. [Approved March 2, 1903. Stats. 1903, p. 78.]

TITLE 485.

STATE GEOLOGICAL SURVEY.

ACT 3821.

Distribution of reports of. [Stats. 1871-72, p. 55.]

Supplemented 1871-72, p. 924.

TITLE 486.

STATE LANDS.

ACT 3825.

An act forfeiting to the state of California all payments for state lands where a fraudulent title was sought to be obtained thereto.

[Approved March 20, 1905. Stats. 1905, p. 388.]

§ 1. Whenever it shall appear by final decree of any court of competent jurisdiction that title to any lands subject to sale by the state of California was obtained, or sought to be obtained, by fraudulent means, or in any manner contrary to the laws of this state relating to the acquisition of its public domain, all payments made in the interest of said fraudulent title shall revert to the state of California without suit, and it shall thereupon become the duty of the state surveyor general and ex officio register of the state land office to cancel all evidence of title to any land embraced in such fraudulent or invalid location, and to restore said land to public entry.

§ 2. This act shall take effect from and after the date of its passage.

ACT 3826.

An act providing for the presentation and cancellation of unlocated school land warrants of the state of California, issued under the act of the state of California, approved May 3, 1852, providing for the disposal of the five hundred thousand acres of land donated to the state of California by the government of the United States, and authorizing the controller of this state to draw his warrant on the state treasurer for the sum of two dollars per acre, in favor of any bona fide owner and holder of any such land warrant, for every

acre represented by any such land warrant. [Approved March 23, 1893. Stats. 1893, p. 181.]

ACT 3827.

An act to provide for the applications for purchase of sixteenth and thirty-sixth sections, and to regulate the application for purchase of such sections, and requiring a deposit to accompany all applications for the purchase of the same.

[Approved March 20, 1889. Stats. 1889, p. 434.]

Citations. Cal. 139/626.

Purchase of sixteenth and thirty-sixth sections.

§ 1. Every application to purchase any portion of the sixteenth and thirty-sixth sections shall be accompanied by a deposit of twenty dollars, in addition to the fee for filing now required by law, for which the surveyor general shall give the applicant a receipt, which receipt shall be accepted by the county treasurer in part payment of the purchase price of said land. If the applicant shall abandon or forfeit his said application, or shall fail to make proper proof as to the character of the said land, or as to his residence thereon, within the time allowed by law, or if his application shall be rejected by reason of any false statement in the affidavit herein contained, the twenty dollars thus paid shall go to the state school fund. If it is found that the surveyor general erred in receiving the application, or that the state cannot make a good title to the land, then the applicant or his assigns may surrender to the surveyor general the said receipt, and receive in exchange therefor a certificate showing the amount so paid, and the reason why the application could not be approved or perfected, and the controller, upon the surrender to him of the said surveyor general's certificate, shall issue to the applicant, or his assigns, a warrant for the said amount.

Filings.

§ 2. Any number of filings on any section of land is hereby permitted and allowed under the provisions of this act. Should the first filing be abandoned by the applicant, the next filing on such section, in order, shall have the same right as if it had been the first filing.

Moneys to go to school land deposit fund.

§ 3. The moneys received by the surveyor general under the provisions of this act, except the moneys forfeited under section 1, shall be paid to the state treasurer at the close of each month, and must be placed in a fund, to be called "School Land Deposit Fund," to the credit of the county in which the lands applied for are situated. When any moneys are placed in the "School Deposit Fund" to the credit of a county, the controller, at the next settlement with the controller by the treasurer of such county, must draw his warrant upon the state treasurer for the amount in the fund to the credit of the county; provided, that the direction herein to the controller is exempted from the operations of section 672 of the Political Code.

ACT 3828.

An act respecting the payment in full by holders of certificates of purchase for lands sold by the state of California prior to March 27, 1872, and for which the said state has at any time heretofore issued certificates of purchase to subsequent purchasers.

[Approved March 20, 1889. Stats. 1889, p. 428.]

When holders of certificates of purchase of state lands deemed to have forfeited their rights therein.

§ 1. Whenever application has been made to purchase land from this state, and payment only in part has been made to the treasurer of the proper county for the same, and a certificate of purchase has been issued to the applicant prior to the twenty-seventh day of March, eighteen hundred and seventy-two, and whenever such applicant, his assignee or assignees, shall have failed for five years to pay to the state the arrears of principal or of interest due to the state for said land, and the state shall at any time heretofore have issued a certificate of purchase for the same land, or any part thereof, to a subsequent purchaser, then, unless the holder or holders of such prior certificate shall pay the entire residue of the interest remaining unpaid for such purchase within six months from and after the passage of this act, such holder or holders shall be deemed to have lost all right to the land described in said certificate, or to complete the purchase of such land, and all moneys heretofore paid to the state of California on such purchase shall be deemed and taken to be forfeited to the state. Nothing herein contained, however, shall be deemed or taken to give to or confer upon the holder or holders of such prior certificates, or any of them, as against the state of California, or any subsequent purchasers therefrom, or against the holders of subsequent certificates of purchase, any other or greater right to the lands herein referred to than is now held by the holder or holders of such prior certificates, or to confer upon such holder or holders any new right, or to affect or impair the rights of such subsequent purchasers or their assigns.

Previous part payment confers no special rights—Does not apply.

§ 2. The mere fact of previous part payment shall not of itself confer on such prior purchaser or his assigns any right to complete the purchase, if he or they be not otherwise entitled so to do, as against the state, and a subsequent purchaser or his assigns; provided, that this act shall not apply to any action now pending commenced within five years.

§ 3. This act shall take effect from and after the date of its passage.

In addition consult the following acts:

ACT 3829.

Ceding to the United States of America jurisdiction over all lands within this state which have been or may hereafter be acquired by the United States for military purposes. [Approved March 2, 1897. Stats. 1897, p. 51.]

ACT 3830.

Ceding to the United States of America jurisdiction over lands in this state ceded to the United States. [Approved March 31, 1891. Stats. 1891, p. 262.]

ACT 3831.

Relinquishing to the United States of America the title of this state to certain lands. [Approved March 9, 1897. Stats. 1897, p. 74.]

This act relinquished the title to tide lands adjacent to lands held by the United States for military purposes.

ACT 3832.

To authorize the governor and surveyor general to sell and convey the state's interest in certain lands. [Approved March 31, 1891. Stats. 1891, p. 251.]

This act authorized the sale of certain lands to the claimants and occupants thereof.

ACT 3833.

To legalize applications heretofore made for the purchase of lands belonging to this state, and to confirm the title of the purchasers under such applications. [Approved March 27, 1872. Stats. 1871-72, p. 622.]

Citations. Cal. 55/104; 69/426, 438; 117/463.

ACT 3834.

For the relief of purchasers of state lands. [Approved March 27, 1872. Stats. 1871-72, p. 587.]

Amended 1877-78, p. 914.

Citations. Cal. 46/26; 52/876; 55/122; 56/224, 225, 226, 228; 62/259; 63/30; 68/543; 78/863; 74/112, 398; 88/106; 85/534, 535; 99/308; 107/547, 548.

ACT 3835.

An act to enable purchasers of state lands to redeem the same, where their titles have been or may hereafter be foreclosed for nonpayment of interest. [Approved March 7, 1881. Stats. 1881, p. 65.]

Citations. Cal. 115/883; 144/425.

ACT 3836.

To provide for an examination into the sale and disposal of state lands. [Approved April 1, 1876. Stats. 1875-76, p. 798.]

This act created a commission to hold office for one year for the above purpose.

ACT 3837.

To protect bona fide settlers upon public lands. [Approved March 23, 1874. Stats. 1873-74, p. 543.]

Citations. Cal. 105/150, 151.

ACT 3838.

To reserve from sale the north half of section sixteen in township seven south and range three east, Monte Diablo meridian. [Approved April 1, 1876. Stats. 1875-76, p. 679.]

ACT 3839.

For the protection of settlers on public lands claimed by the state. [Approved March 10, 1874. Stats. 1873-74, p. 327.]
Amended 1881, p. 72: See Political Code, §§ 3441, 3443.

TITLE 487.**STATE LIBRARY.****ACT 3844.**

State library, establishing cabinet department in. [Stats. 1871-72, p. 824.]

"Further duties of librarian terminated by transfer of the mineral specimens to the mining bureau by senate concurrent resolution No. 10 of March 4, 1881 (1881, p. 102); transferred to Crocker Art Gallery, 1887, p. 74, a. LX."—Code Commissioners' Note.

TITLE 488.**STATE PRINTER.****ACT 3849.**

Relating to. [Stats. 1871-72, p. 871.]

Superseded by Political Code, § 540, subd. 4, relating to superintendent of state printing.

ACT 3850.

State printing-office, establishing. [Stats. 1871-72, p. 554.]

Superseded and repealed by Political Code, §§ 526-540.

TITLE 489.**STATE PRISONS.****ACT 3855.**

To define, regulate, and govern the state prisons of California. [Stats. 1880, p. 67.]

Amended 1881, p. 79. Superseded by 1889, p. 404.

See ante, Act 2762.

Unconstitutional in part: See *People v. Chapman*, 61 Cal. 262.

ACT 3856.

To regulate and govern. [Stats. 1889, p. 404.]

Amended 1905, pp. 520, 724.

See ante, Act 2763.

ACT 3857.

Branch state prison near Folsom, erection and maintenance of. [Stats. 1873-74, p. 785.]

Superseded by 1889, p. 404.

ACT 3858.

Appropriating money for building workshops and prison buildings at San Quentin. [Approved March 31, 1876. Stats. 1875-76, p. 643.]

ACT 3859.

Concerning the payment of the expenses and costs of the trial of convicts for crimes committed in the state prison, and to pay the costs of the trial of escaped convicts, and to pay for the expense of coroner's inquests in said prison. [Stats. 1880, p. 43.]

This act is in full in the Appendix to the Penal Code, p. 768.

See ante, Act 786.

ACT 3860.

Providing for the erection and operation of rock-crushing plants at the state prisons, for the preparation of highway material for the benefit of the people of the state, and providing for the necessary advances and appropriation of money to carry out said work. [Stats. 1895, p. 274.]

In full in the Appendix to the Penal Code, p. 887.

ACT 3861.

To regulate and govern the operation of the rock-crushing plant at Folsom, to provide for the sale of crushed rock and the disposition of the revenues derived therefrom. [Stats. 1897, p. 99.]

In full in the Appendix to the Penal Code, p. 890.

ACT 3862.

Directing the state prison directors of the state of California to employ at least twenty prisoners in the construction of roads to the state prisons at San Quentin and at Folsom. [Approved March 12, 1903. Stats. 1903, p. 127.]

This act appears in full in Penal Code, Appendix, p. 896. See ante, Act 2774.

ACT 3863.

To protect the public health, to prevent the introduction and spreading of disease, and to provide for the protection of the health of criminals under sentence on a conviction of a misdemeanor. [Stats. 1883, p. 280.]

This act provided for the cutting of the hair of prisoners. See Penal Code, § 1615.

ACT 3864.

To prohibit the sale of ardent spirits within two miles of the state prison. [Stats. 1855, p. 108.]

Superseded by Penal Code, § 172.

ACT 3865.

To authorize and empower the state board of prison directors to purchase California-grown hemp, to be used in the manufacture of grain bags, and to fix the price at which such bags shall be sold. [Approved March 16, 1901. Stats. 1901, p. 515.]

This act appears in full in Penal Code, Appendix, p. 893.

ACT 3866.

To establish a board of parole commissioners for the parole of and government of paroled prisoners. [Stats. 1893, p. 183.]

Amended 1901, p. 82.

In full in Appendix to Penal Code, p. 897.

TITLE 490.**STATE TREASURER.****ACT 3871.**

To increase the number of clerks in the office of. [Stats. 1889, p. 303.]

Repealed 1895, p. 88.

TITLE 491.**STATUTE OF LIMITATIONS.****ACT 3876.**

Respecting limitation of actions. [Stats. 1871-72, p. 319.]

Citations. Cal. 104/486.

Superseded by Code of Civil Procedure, § 848.

This act appears in full in Code of Civil Procedure, Appendix, p. 870. It related to actions on bankers' certificates of deposit found after the decease of a party.

ACT 3877.

Defining time for commencing civil actions, supplementing act of April 22, 1850. [Stats. 1871-72, p. 401.]

Codified and superseded by Code of Civil Procedure, § 848.

This act appears in full in Code of Civil Procedure, Appendix, p. 870. It provided that there should be no limitation against banks and trust companies.

TITLE 492.**STATUTES.****ACT 3882.**

To abolish all laws except those passed during the present session. [Stats. 1850, p. 342.]

to him or her, postage prepaid, notifying the objectors of the time and place of hearing. At the time specified, the council shall hear the objections urged, and pass upon the same, and its decision shall be final and conclusive, except that in the choice of trees to be planted, it shall be governed by the written request of the owners of a majority of the frontage on both sides of the street which it is proposed to plant. If the objections be sustained, no further proceedings shall be taken under the resolution of intention for six months after the date of its passage. If it be again proposed to plant the street, the council shall commence proceedings de novo as if no action had been previously taken.

§ 4. At the expiration of ten days after the expiration of the time of publication of said resolution of intention, if no written objections to the work therein described shall have been filed with the city clerk, as hereinbefore provided, otherwise, immediately upon the overruling of the objections by the council, the council shall be deemed to have acquired jurisdiction to order to be done the work which is authorized by this act, which order shall be published for two days in the same papers and manner as provided for the publication of the resolution of intention.

§ 5. Before passing any resolutions for the planting of any street, the city council shall cause notice, with specifications, to be posted conspicuously for five days near the door of the council chamber, and shall advertise the same for five days in the same manner and papers as heretofore provided for the publication of the resolution of intention, inviting sealed proposals for bids for furnishing the trees and doing the work ordered. All bids shall state the sum or price for which the bidder will undertake to furnish the trees, of the kind, age, and size required, and will suitably prepare the ground, set out the trees, warrant every one of them to grow, or replace all that fail to grow or receive damage from whatever cause with others of the same kind, and of suitable age and size to preserve uniformity, and will for three years care for, cultivate, protect, irrigate, and trim said trees. And no order for the planting of any street shade trees shall be made that does not likewise provide for the care and maintenance of the trees for three years by the contractor planting the trees. All proposals or bids shall be accompanied by a check payable to the order of the mayor or president of the city council, certified by a responsible bank, for an amount which shall not be less than ten per cent of the aggregate of the proposal. Said proposals or bids shall be delivered to the clerk of the city council, indorsed "Proposals to plant trees," and said council shall, in open session, examine and publicly declare the same; provided, that no proposal or bid shall be considered unless accompanied by said check. The council may reject all proposals, should it deem this for the public good, and shall reject the bid of any party who has been delinquent or unfaithful in any former contract with the municipality, and may award the contract to the lowest responsible bidder, at the prices named in his bid, which award shall be approved by the mayor or president of the council. Notice of such awards of contract shall be posted and advertised for

after the completion of the planting; provided, all conditions shall have been complied with.

§ 9. Immediately upon the execution of any contract for the planting and care of street trees under the provisions of this act, it shall be the duty of the city assessor to make an assessment to cover the sum to become due for the work specified in such contract (including all incidental expenses) upon the lots and land fronting on the street, lane, alley, court, or place to which such contract relates, each lot or portion of a lot being separately assessed, in proportion to the frontage, at a rate per foot front sufficient to cover the total expenses of the work. Said assessment shall briefly refer to the contract, the work contracted for, and shall show the amount to be paid therefor, together with any incidental expenses, the rate per foot front assessed, the amount of each assessment, the name of the owner of each lot, if known to the assessor (if unknown, the word "Unknown" shall be written opposite the number or description of the lot, with the amount assessed thereon). And the assessor shall attach to said assessment a diagram, exhibiting the street, lane, alley, place, or court on which the work is contracted to be done, and showing the relative location and frontage of such lot, numbered to correspond with the numbers in the assessment. To said assessment shall be attached a warrant, which shall be signed by the superintendent of streets, and countersigned by the mayor or president of the council. The said assessments and warrants shall be separately issued for each payment that shall be due the contractor, as specified in section 8 of this act, and shall be substantially in the following form:

Form of the Warrant.

By virtue hereof, I (name of the superintendent of streets), of the city of —, county of —, and state of California, by virtue of the authority vested in me as said superintendent of streets, do authorize and empower (name of contractor), his agents or assigns, to demand and receive the several assessments upon the assessment and diagram hereto attached, and this shall be his warrant for the same.

Date —, —. (Name of superintendent of streets.)

Countersigned by (name of mayor or president of council.)

Recorded (date —, —). (Name of superintendent of streets.)

Said warrant, assessment, and diagram shall be recorded in the office of the superintendent of streets. When so recorded, the several amounts assessed shall be a lien upon the lands, lots, or portions of lots, assessed, respectively, for the period of two years from the date of said recording, unless sooner discharged. From and after the date of said record, all persons interested in any manner in any or all of the lots assessed shall be deemed to have notice of the contents of said record.

§ 10. After said warrant, assessment, and diagram shall have been recorded, the same shall be delivered to the contractor, his agents or assigns, on demand, who shall thereby be authorized to demand and receive the amounts of the several assessments. In default whereof, and as regards enforced collections, interest, cost, and penalties, and the

115/558; 119/165; 128/206, 207, 208; 124/277, 886, 888, 840, 505; 125/640; 127/665, 666, 667; 132/286; 138/6; 150/562; 153/292.

Laying out, opening, closing, etc., streets, lanes, alleys, etc.

§ 1. Whenever the public interest or convenience may require, the city council of any municipality shall have full power and authority to order the opening, extending, widening, straightening, or closing up in whole or in part of any street, square, lane, alley, court, or place within the bounds of such city, and to condemn and acquire any and all land and property necessary or convenient for that purpose.

Resolution of council declaring intention to perform street work.

§ 2. Before ordering any work to be done or improvement made which is authorized by section one of this act, the city council shall pass a resolution declaring its intention to do so, describing the work or improvement, and the land deemed necessary to be taken therefor, and specifying the exterior boundaries of the district of lands to be affected or benefited by said work or improvement, and to be assessed to pay the damages, cost, and expenses thereof.

Street superintendent to post notice.

§ 3. The street superintendent shall then cause to be conspicuously posted along the line of said contemplated work or improvement, at not more than three hundred feet in distance apart, but not less than three in all, notices of the passage of said resolution. Said notice shall be headed "Notice of Public Work," in letters not less than one inch in length, shall be in legible characters, state the fact of passage of the resolution, its date, and, briefly, the work or improvement proposed, and refer to the resolution for further particulars. He shall also cause a notice, similar in substance, to be published for a period of ten days in one or more daily newspapers published and circulated in said city, and designated by said city council; or if there is no daily newspaper so published and circulated in said city, then by four successive insertions in a weekly or semi-weekly newspaper, so published, circulated, and designated.

Interested person may file objections.

§ 4. Any person interested objecting to said work or improvement, or to the extent of the district of lands to be affected or benefited by said work or improvement, and to be assessed to pay the cost and expenses thereof, may make written objections to the same within ten days after the expiration of the time of the publication of said notice, which objection shall be delivered to the clerk of the city council, who shall indorse thereon the date of its reception by him, and at the next meeting of the city council after the expiration of said ten days lay said objections before said city council, which shall fix a time for hearing said objections, not less than one week thereafter. The city clerk shall thereupon notify the persons making such objections, by depositing a notice thereof in the postoffice of said city, postage prepaid, addressed to such objector.

ACT 3883.

Fixing the time when general laws shall take effect. [Stats. 1860, p. 16.]
Amended 1861, p. 77. Superseded by Political Code, § 323.

TITLE 493.**STEAMBOATS.****ACT 3888.**

To guard against the destruction of property by fire by means of sparks from the chimneys of steamboats navigating certain waters of this state. [Stats. 1857, p. 121.]

This act required steamboats on the San Joaquin or Sacramento rivers to use spark-catchers. It has been superseded by Political Code, §§ 2374-2377.

TITLE 494.**ST. HELENA.****ACT 3894.**

Incorporating. [Stats. 1875-76, p. 444.]

Amended 1877-78, p. 791. Superseded by incorporating, in 1889, under the Municipal Corporation Act of 1883.

TITLE 495.**STOCKTON.****ACT 3898.**

Reincorporating. [Stats. 1871-72, p. 595.]

Amended 1873-74, pp. 198, 439; 1875-76, p. 523; 1877-78, p. 220. Superseded by the charter of Stockton, 1899, p. 577. See Act 3899.

ACT 3899.

Charter of Stockton. [Stats. 1889, p. 578.]

Amended 1905, p. 832.

Citations. Cal. 148/587.

ACT 3900.

Assessor of, additional powers of. [Stats. 1877-78, p. 65.]

Superseded by charter of Stockton, 1889, p. 514.

ACT 3901.

City council empowered to protect city from inundation. [Stats. 1875-76, p. 12.]

Superseded by charter of that city, 1889, p. 577.

ACT 3902.

Empowering to excavate, widen, and open Mormon Slough. [Stats. 1871-72, p. 540.]

"Probably superseded by charter of Stockton, §§ 146 to 164; Stats. 1889, p. 612."—Code Commissioners' Note.

whether they are issued for land or improvements taken or damaged, or for charges and expenses, and that the demand is payable only out of the money in said fund, and in no event shall the city be liable for the failure to collect any assessment made by virtue hereof, nor shall said warrant be payable out of any other fund, nor [be] a claim against the city.

Assessment for damages.

§ 9. Said commissioners shall proceed to view the lands described in the resolution of intention, and may examine witnesses on oath to be administered by any one of them. Having viewed the land to be taken, and the improvements affected, and considered the testimony presented, they shall proceed, with all diligence, to determine the value of the land, and the damage to improvements and property affected, and also the amount of the expenses incident to said work or improvement, and having determined the same shall proceed to assess the same upon the district of lands declared benefited, the exterior boundaries of which were fixed by the resolution of intention provided for by section 2 hereof. Such assessment shall be made upon the lands within said district in proportion to the benefit to be derived from said work or improvement, so far as the said commissioners can reasonably estimate the same, including in such estimate the real property of any railroad company within said district, if such there be, and may also include in such estimate any or all public property within said district. [Amendment approved April 21, 1909. Stats. 1909, p. 1034. In effect immediately.]

Report to council accompanied with a plat of the assessment district.

§ 10. Said commissioners having made their assessment of benefits and damage, shall, with all diligence, make a written report thereof to the city council, and shall accompany their report with a plat of the assessment district showing the land taken or to be taken for the work or improvement, and the lands assessed, showing the relative location of each district, block, lot, or portion of lot, and its dimensions, so far as the commissioners can reasonably ascertain the same. Each block and lot, or portion of lot, taken or assessed, shall be designated and described in said plat by an appropriate number, and in reference to it by such descriptive number shall be a sufficient description of it in any suit entered to condemn, and in all respects. When the report and plat are approved by the city council, a copy of said plat, appropriately designated, shall be filed by the clerk thereof in the office of the recorder of the county.

Report what must specify.

§ 11. Said report shall specify each lot, subdivision, or piece of property taken or injured by the widening or other improvement, or assessed therefor, together with the name of the owner or claimants thereof, or of persons interested therein as lessees, encumbrancers, or otherwise, so far as the same are known to such commissioners, and the particulars of their interest, so far as the same can be ascertained, and the amount of value or damage, or the amount assessed, as the case may be.

or dedicated, to public use, whose grade has been officially established, and which have been actually graded in conformity therewith, may be planted with shade trees, along the edges of the sidewalks thereof, by order of the city council, which shall have power, also, to provide for the maintenance and care of the same; and the city council shall have power to prescribe the height, thickness, and manner of trimming of all hedges set out, or that shall hereafter be set out, along the line of any street, lane, alley, place, or court dedicated to public use, whether graded or not, and to compel compliance with its ordinances in the premises by the owners or occupants of the lots fronting thereon. The powers hereby conferred upon city councils shall be exercised in the manner and under the proceedings hereinafter described.

§ 2. The city council of any municipality in the state may, at its discretion, pass a resolution of intention to plant, or cause to be planted, with shade trees, any graded street, lane, alley, place, or court within the limits of such municipality. Such resolution of intention may embrace the entire length of any street, lane, alley, place, or court, or any portion thereof, but must specify the kind of trees to be planted, their size, age, and their distance apart. The street superintendent shall thereupon cause to be conspicuously posted along both sides of the street mentioned in the resolution, at not more than three hundred feet in distance apart, notices of the passage of said resolution. Said notice shall be headed "Notice to plant shade trees," in letters not less than one inch in length, and shall, in legible characters, set forth the language of the resolution, and the date of its passage. The city clerk shall also cause a copy of the resolution to be published for six days in one or more daily newspapers published and circulated in said city, and designated by said city council. Should there be no daily newspaper published in said city then in such case publication may be made of such resolution, and of all other matters herein provided to be published, in a weekly newspaper, published and circulated in said city, and designated by said city council. [Amendment approved March 13, 1909. Stats. 1909, p. 331. In effect immediately.]

§ 3. The owners of a majority of the frontage of the property on both sides of the street proposed to be planted as aforesaid may, within ten days after the expiration of the time of publication of said resolution, file their written statement of the objections to the proposed work with the city clerk, which must be signed by the objectors, each one writing after his or her name the number of feet frontage owned by him or her. Such objection must show wherein the parties making them will be injured or aggrieved by the proposed work, and if the objection be to the kind of trees proposed to be planted, they must name some other kind of tree to be substituted therefor. The city council shall, at its next meeting after the filing of said objections, fix a time for hearing the same, not less than one week thereafter. The city clerk shall thereupon notify each objector, or his agent, who has signed his or her name to the statement, by depositing, in the postoffice of said city a notice addressed

tions in a weekly or semi-weekly newspaper so published and circulated, that he has received said assessment-roll, and that all sums levied and assessed in said assessment-roll are due and payable immediately, and that the payment of said sums is to be made to him within thirty days from the date of the first publication of said notice. Said notice shall also contain a statement that all assessments not paid before the expiration of said thirty days will be declared to be delinquent, and that thereafter the sum of five per cent upon the amount of each delinquent assessment, together with the cost of advertising each delinquent assessment, will be added thereto. When payment of any assessment is made to said superintendent of streets, he shall write the word "Paid," and the date of payment, opposite the respective assessment so paid, and the names of persons by or for whom said assessment is paid, and shall, if so required, give a receipt therefor. On the expiration of said thirty days, all assessments then unpaid shall be and become delinquent, and said superintendent of streets shall certify such fact at the foot of said assessment-roll, and shall add five per cent to the amount of each assessment so delinquent. The said superintendent of streets shall, within five days from the date of said delinquency, proceed to advertise and collect the various sums delinquent, and the whole thereof, including the cost of advertising, which last shall not exceed the sum of fifty cents for each lot, piece, or parcel of land separately assessed, by the sale of the assessed property in the same manner as is or may be provided for the collection of state and county taxes; and after the date of said delinquency, and before the time of such sale herein provided for, no assessment shall be received unless at the same time the five per cent added thereto, as aforesaid, together with the costs of advertising then already incurred, shall be paid therewith. Said list of delinquent assessments shall be published daily for five days in one or more daily newspapers published and circulated in such city, or by at least one insertion in a weekly newspaper so published and circulated, before the day of sale of such delinquent assessment. Said time of sale must not be less than seven days from the date of the first publication of said delinquent assessment-list, and the place must be in or in front of the office of said superintendent of streets. All property sold shall be subject to redemption in the same time and manner as in sales for delinquent state and county taxes; and the superintendent of streets may collect for each certificate fifty cents, and for each deed one dollar. All provisions of the law, in reference to the sale and redemption of property for delinquent state and county taxes in force at any given time, shall also then, so far as the same are not in conflict with the provisions of this act, be applicable to the sale and redemption of property for delinquent assessments hereunder, including the issuance of certificates and execution of deeds. The deed of the street superintendent made after such sale, in case of failure to redeem, shall be prima facie evidence of the regularity of the proceedings hereunder, and of title in the grantee. It shall be conclusive evidence of the necessity of taking or damaging the lands or damaged, and of the correctness of the compensation awarded. The superintendent of streets shall, from time to time, pay

five days, in the manner hereinbefore provided, and it shall be the duty of the superintendent of streets to enter into a contract with the bidder to whom the work shall have been awarded by the council, and at the prices specified in his bid; whereupon the certified checks of all the other bidders shall be returned to them, respectively. But if such lowest bidder neglects, fails, or refuses, for fifteen days after the first posting and publication of the award, to enter into the contract, then the city council, without further proceedings, shall again advertise for proposals or bids, as in the first instance, and shall award the contract for said work to the then lowest bidder. If the contractor who shall have taken any contract shall not complete the planting, within the time limited in the contract, or within such further time as the council may give him, the superintendent of streets shall report such delinquency to the council, which may relet the unfinished portion of the planting and the future care of the trees, after pursuing the formalities hereinbefore prescribed for the letting of the whole in the first instance.

§ 6. All contractors shall, at the time of executing any contract for the planting and care of trees, execute a bond to the satisfaction of the mayor or president of the city council, with two or more sureties, and payable to the city in such sums as the mayor or president of the council shall deem adequate, conditioned for the faithful performance of the contract, and the sureties shall justify before the recorder or a justice of the peace, in double the amount mentioned in such bond, over and above all statutory exemption. Before being entitled to any contract, the bidder to whom the award shall have been made must pay into the city treasury the cost of the publication of notices, resolutions, and orders, and all other incidental expenses required under the proceedings prescribed by this act.

§ 7. All work done under the provisions of this statute shall be executed under the direction of the superintendent of streets, whose duty it shall be, under the general control of the council, to see that all the obligations assumed by contractors towards the city are faithfully complied with, and that all trees furnished are sound, healthy, free from infection by insects, and of the kind, size, and age called for by the contract. He shall certify to the completion of all work, or portion of work, which, by the terms of the contract, shall entitle the contractor to payment in whole or in part, and the presentation of his certificate by the contractor shall be a condition precedent to each payment that shall become due under the contract.

§ 8. All sums due to contractors under the provisions of this act shall be payable by installments, as follows, to wit: Not more than one-half the entire consideration in the contract shall be payable on the completion of the planting, and out of this amount the superintendent of streets shall see that the trees are paid for, to the party furnishing the same; one-half the balance at the end of eighteen months after the completion of the planting; provided, all conditions shall have been complied with; the remaining one-half to be paid at the end of three years

in their discretion, order the balance thereof to be paid out of the general fund of the treasury or to be distributed by the commissioners over the property assessed by a supplementary assessment; but in the last-named case, in order to avoid delay, the city council may advance such balance out of any appropriate fund in the treasury, and reimburse the same from the collections of the assessment. Pending the collection and payment of the amount of the judgment and damages, the court may order such stay of proceedings as may be necessary.

Duty of treasurer on payment of warrants.

§ 19. The treasurer shall pay such warrants out of the appropriate fund, and not otherwise, in the order of their presentation; provided, that warrants for land or improvements taken or damaged shall have priority over warrants for charges and expenses, and the treasurer shall see that sufficient money is and remains in the fund to pay all warrants of the first class before paying any of the second.

Supplementary assessments, when may be ordered.

§ 20. If after the sale of the property for delinquent assessments there should be a deficiency, and there should be unreasonable delay in collecting the same, or if for the purpose of equalizing the assessments supplying a deficiency, or for any cause it appears desirable, the commissioners may so report to the city council, who may order them to make a supplementary assessment and report the same in manner and form as the original, and subject to the same procedure. If by reason of such supplementary assessment, or for any cause, there should be at any time a surplus, the city council may appropriate the same and declare a dividend pro rata to the parties paying the same, and they, upon demand, shall have the right to have the amount of such pro rata dividends refunded to them, or credited upon any subsequent assessment for taxes made against said parties in favor of said city.

Proceedings to settle defective title.

§ 21. If any title attempted to be acquired by virtue of this act shall be found to be defective from any cause, the city council may again institute proceedings to acquire the cause as in this act provided, or otherwise, or may authorize the commissioners to purchase the same and include the cost thereof in a supplementary assessment as provided in the last section.

Proceedings when boundaries of districts of lands affect the whole city.

§ 22. If the city council deem it proper that the boundaries of the districts of lands to be affected and assessed to pay the damages, cost and expenses of any work or improvement under this act, shall include the whole city, then the commissioners appointed shall proceed in a summary manner to purchase the lands to be taken or condemned from the owners and claimants thereof. If said commissioners and the owners and claimants cannot agree upon the price to be paid for said lands, they shall proceed to view and value the same, and shall thereupon make a summary report to the city council. Upon final confirmation of the

correction of errors, the same proceedings are to be had as are specified in sections 9, 10, 11, 12, 16, and 17 of an act entitled "An act to provide for work upon streets, lanes, alleys, courts, places, and sidewalks, and for the construction of sewers within municipalities," approved March eighteenth, eighteen hundred and eighty-five, amended March fourteenth, eighteen hundred and eighty-nine.

§ 11. The city council of every municipality in this state has jurisdiction of the hedges and fences placed by property owners along street lines, and may, by ordinance, prohibit the planting of thorn-bearing hedges and the use of barbed-wire along street lines, and may regulate the height, width, and the mode of trimming hedges, and enforce ordinances enacted for such purposes against absentees, or other negligent or reculant owners or occupants of lots or lands on which hedges are maintained. They may also condemn as public nuisances, any or all weeds whose seeds are of a winged or downy nature, and are spread by the winds, and may compel the eradication of such weeds by the owners of the lots whereon they grow, or at their expense.

§ 12. The city council or trustees of every municipality shall provide for the replacement of missing trees, and for the trimming and care of all trees that have or shall have been planted for three or more years in the streets and highways, whether such planting shall have been done under this act or otherwise; the expense whereof must be defrayed out of the street fund, and the work be done by the superintendent of streets of such municipality.

§ 13. This act shall only apply to such municipalities as shall by vote of the electors residing therein determine to come within its provisions.

§ 14. This act shall take effect from and after its passage.

ACT 3926.

To provide for the improvement of streets, etc., and the construction of sewers within municipalities. [Stats. 1883, p. 32.]

Repealed 1885, p. 165.

Citations. Cal. 69/478; 78/75, 78, 85; 86/558; 98/618.

ACT 3927.

An act to provide for laying out, opening, extending, widening, straightening, or closing up in whole or in part any street, square, lane, alley, court or place within municipalities, and to condemn and acquire any and all land and property necessary or convenient for that purpose.

[Approved March 6, 1889. Stats. 1889, p. 70.]

Amended 1909, p. 1034.

Repealed as to cities over 40,000. Act 3931, post.

Citations. Cal. 86/89, 43, 44; 95/458, 459; 97/18; 98/616; 99/540; 100/485; 101/19, 28, 508, 511; 102/517; 104/807; 109/51; 118/632, 634;

Construction of terms "clerk" and "city clerk."

6. The terms "clerk" and "city clerk," as used in this act, is hereby declared to include any person or officer who shall be clerk of said city council.

Construction of terms "treasurer" and "city treasurer."

7. The term "treasurer" or "city treasurer," as used in this act, shall include any person or officer who shall have charge and make payment of the city funds.

8. No publications or notice other than that provided for in this act shall be necessary to give validity to any proceedings had thereunder.

Proceedings commenced before passage of this act to be continued by resolution of council.

§ 24. The proceedings and any work or improvement, such as is provided for in this act, already commenced, and now progressing under any other act now in force, or by virtue of any ordinance passed by any city council or board of supervisors of any city, county, or city and county, by virtue of any other act now in force, may, from any stage of such proceedings already commenced and now progressing, be continued under this act by resolution of the city council. The said work or improvement may then be conducted under the provisions of this act with full force and effect in all respects, from the stage of such proceedings under such other acts or ordinances at and from which such resolution shall declare an election or intention to have said work or improvement cease under such other act or ordinance, and continue under this act; and from such election so made, all proceedings theretofore had under such other act or ordinance are hereby ratified, confirmed, and made valid, and it shall be unnecessary to renew or conduct over again proceedings had under such other act or ordinance. This section shall not apply to any work or improvement, proceedings in which were commenced more than eighteen months prior to the passage of this act.

Act to be liberally construed.

§ 25. The provisions of this act shall be liberally construed to promote the objects thereof. This act shall take effect and be in force from and after its passage.

ACT 3928.

An act to provide for the laying out, opening, extending, widening, or straightening, in whole or in part, of public streets, squares, lanes, alleys, courts, and places, within municipalities, for the condemnation of property necessary or convenient for such purposes, and for the establishment of assessment districts and the assessment of property therein to pay the expense of such improvement.

[Approved March 24, 1903. Stats. 1903, p. 376.]

Amended 1909, p. 1035.

Citations. Cal. 158/292. App. 7/526, 527; 8/608, 609, 610, 611.

Decision of council to be final.

§ 5. At the time specified or to which the hearing may be adjourned, the said city council shall hear the objections urged, and pass upon the same, and its decision shall be final and conclusive. If such objections are sustained, all proceedings shall be stopped, but proceedings may be again commenced at any time by giving notice of intention to do said work or make said improvement. If such objection is overruled by the city council, the proceedings shall continue the same as if such objection had not been made. At the expiration of the time prescribed during which objections to said work or improvement may be made, if no objection shall have been made, or if an objection shall have been made, and said council, after hearing, shall have overruled the same, the city council shall be deemed to have acquired jurisdiction to order any of the work to be done, or improvements to be made, which is authorized by section 1 of this act.

Jurisdiction.

§ 6. Having acquired jurisdiction as provided in the preceding section, the city council shall order said work to be done, and unless the proposed work is for closing up, and it appears that no assessment is necessary, shall appoint three commissioners to assess benefits and damages, and have general supervision of the proposed work or improvement until the completion thereof in compliance with this statute. For their services, they shall receive such compensation as the city council may determine from time to time; provided, that such compensation shall not exceed two hundred dollars per month each, nor continue more than six months, unless extended by order of the city council. Such compensation shall be added to and be chargeable as a part of the expenses of the work or improvement. Each of said commissioners shall file with the clerk of the city council an affidavit, and a bond to the state of California, in the sum of five thousand dollars, to faithfully perform the duties of his office. The city council may at any time remove any or all of said commissioners for cause, upon reasonable notice and hearing, and may fill any vacancies occurring among them for any cause.

Commissioners to employ assistance.

§ 7. Said commissioners shall have power to employ such assistance, legal or otherwise, as they may deem necessary and proper; also to rent an office, and provide such maps, diagrams, plans, books, stationery, fuel, lights, postage, expressage and incur such incidental expenses as they may deem necessary.

Expenses to be a charge upon the particular work required.

§ 8. All such charges and expenses shall be deemed as expenses of said work or improvement, and be a charge only upon the funds devoted to the particular work or improvement, as provided hereinafter. All payments, as well for the land and improvements taken or damaged, as for the charges and expenses, shall be paid by the city treasurer, upon warrants drawn upon said fund from time to time, signed by said commissioners, or a majority of them. All such warrants shall state

whether they are issued for land or improvements taken or damaged, or for charges and expenses, and that the demand is payable only out of the money in said fund, and in no event shall the city be liable for the failure to collect any assessment made by virtue hereof, nor shall said warrant be payable out of any other fund, nor [be] a claim against the city.

Assessment for damages.

§ 9. Said commissioners shall proceed to view the lands described in the resolution of intention, and may examine witnesses on oath to be administered by any one of them. Having viewed the land to be taken, and the improvements affected, and considered the testimony presented, they shall proceed, with all diligence, to determine the value of the land, and the damage to improvements and property affected, and also the amount of the expenses incident to said work or improvement, and having determined the same shall proceed to assess the same upon the district of lands declared benefited, the exterior boundaries of which were fixed by the resolution of intention provided for by section 2 hereof. Such assessment shall be made upon the lands within said district in proportion to the benefit to be derived from said work or improvement, so far as the said commissioners can reasonably estimate the same, including in such estimate the real property of any railroad company within said district, if such there be, and may also include in such estimate any or all public property within said district. [Amendment approved April 21, 1909. Stats. 1909, p. 1034. In effect immediately.]

Report to council accompanied with a plat of the assessment district.

§ 10. Said commissioners having made their assessment of benefits and damage, shall, with all diligence, make a written report thereof to the city council, and shall accompany their report with a plat of the assessment district showing the land taken or to be taken for the work or improvement, and the lands assessed, showing the relative location of each district, block, lot, or portion of lot, and its dimensions, so far as the commissioners can reasonably ascertain the same. Each block and lot, or portion of lot, taken or assessed, shall be designated and described in said plat by an appropriate number, and in reference to it by such descriptive number shall be a sufficient description of it in any suit entered to condemn, and in all respects. When the report and plat are approved by the city council, a copy of said plat, appropriately designated, shall be filed by the clerk thereof in the office of the recorder of the county.

Report what must specify.

§ 11. Said report shall specify each lot, subdivision, or piece of property taken or injured by the widening or other improvement, or assessed therefor, together with the name of the owner or claimants thereof, or of persons interested therein as lessees, encumbrancers, or otherwise, so far as the same are known to such commissioners, and the particulars of their interest, so far as the same can be ascertained, and the amount of value or damage, or the amount assessed, as the case may be.

When set down to unknown owners.

§ 12. If in any case the commissioners find that conflicting claims of title exist, or shall be in ignorance or doubt as to the ownership of any lot of land, or of any improvements thereon, or of any interest therein, it shall be set down as belonging to unknown owners. Error in the designation of the owner or owners of any land or improvements, or of the particulars of their interest, shall not affect the validity of the assessment or of the condemnation of the property to be taken.

Filing of report and plat, and publication of.

§ 13. Said report and plat shall be filed in the clerk's office of the city council, and thereupon the clerk of said city council shall give notice of such filing by publication for at least ten days in one or more daily newspapers published and circulated in said city; or if there be no daily paper, by three successive insertions in a weekly or semi-weekly newspaper so published and circulated. Said notice shall also require all persons interested to show cause, if any, why such report should not be confirmed, before the city council on or before a day fixed by the clerk thereof, and stated in said notice, which day shall not be less than thirty days from the first publication thereof.

Objections must be in writing.

§ 14. All objections shall be in writing, and filed with the clerk of the city council, who shall, at the next meeting after the day fixed in the notice to show cause, lay the said objections, if any, before the city council, which shall fix a time for hearing the same, of which the clerk shall notify the objectors in the same manner as objectors to the original resolution of intention; at the time set, or at such other time as the hearing may be adjourned to, the city council shall hear such objections and pass upon the same; and at such time, or, if there be no objections, at the first meeting after the day set in such order to show cause, or such other time as may be fixed, shall proceed to pass upon such report, and may confirm, correct, or modify the same, or may order the commissioners to make a new assessment, report, and plat, which shall be filed, notice given, and hearing had, as in the case of an original report.

Duty of clerk of council.

§ 15. The clerk of said city council shall forward to the street superintendent of the city a certified copy of the report, assessment, and plat, as finally confirmed and adopted by the city council. Such certified copy shall thereupon be the assessment-roll. Immediately upon receipt thereof by the street superintendent, the assessment therein contained shall become due and payable, and shall be a lien upon all the property contained or described therein.

Duty of superintendent of streets on receiving certified copy of report as confirmed by council.

§ 16. The superintendent of streets shall thereupon give notice by publication for ten days in one or more daily newspapers published and circulated in such city or city and county, or by two successive inser-

tions in a weekly or semi-weekly newspaper so published and circulated, that he has received said assessment-roll, and that all sums levied and assessed in said assessment-roll are due and payable immediately, and that the payment of said sums is to be made to him within thirty days from the date of the first publication of said notice. Said notice shall also contain a statement that all assessments not paid before the expiration of said thirty days will be declared to be delinquent, and that thereafter the sum of five per cent upon the amount of each delinquent assessment, together with the cost of advertising each delinquent assessment, will be added thereto. When payment of any assessment is made to said superintendent of streets, he shall write the word "Paid," and the date of payment, opposite the respective assessment so paid, and the names of persons by or for whom said assessment is paid, and shall, if so required, give a receipt therefor. On the expiration of said thirty days, all assessments then unpaid shall be and become delinquent, and said superintendent of streets shall certify such fact at the foot of said assessment-roll, and shall add five per cent to the amount of each assessment so delinquent. The said superintendent of streets shall, within five days from the date of said delinquency, proceed to advertise and collect the various sums delinquent, and the whole thereof, including the cost of advertising, which last shall not exceed the sum of fifty cents for each lot, piece, or parcel of land separately assessed, by the sale of the assessed property in the same manner as is or may be provided for the collection of state and county taxes; and after the date of said delinquency, and before the time of such sale herein provided for, no assessment shall be received unless at the same time the five per cent added thereto, as aforesaid, together with the costs of advertising then already incurred, shall be paid therewith. Said list of delinquent assessments shall be published daily for five days in one or more daily newspapers published and circulated in such city, or by at least one insertion in a weekly newspaper so published and circulated, before the day of sale of such delinquent assessment. Said time of sale must not be less than seven days from the date of the first publication of said delinquent assessment-list, and the place must be in or in front of the office of said superintendent of streets. All property sold shall be subject to redemption in the same time and manner as in sales for delinquent state and county taxes; and the superintendent of streets may collect for each certificate fifty cents, and for each deed one dollar. All provisions of the law, in reference to the sale and redemption of property for delinquent state and county taxes in force at any given time, shall also then, so far as the same are not in conflict with the provisions of this act, be applicable to the sale and redemption of property for delinquent assessments hereunder, including the issuance of certificates and execution of deeds. The deed of the street superintendent made after such sale, in case of failure to redeem, shall be prima facie evidence of the regularity of all proceedings hereunder, and of title in the grantee. It shall be conclusive evidence of the necessity of taking or damaging the lands taken or damaged, and of the correctness of the compensation awarded therefor. The superintendent of streets shall, from time to time, pay

over to the city treasurer all moneys collected by him on account of any such assessments. The city treasurer shall, upon receipt thereof, place the same in a separate fund, designating such fund by the name of the street, square, lane, alley, court, or place for the widening, opening, or other improvement of which the assessment was made. Payments shall be made from said fund to the parties entitled thereto, upon warrants signed by the commissioners, or a majority of them.

Payments for land and improvements, when and how made.

§ 17. When sufficient money is in the hands of the city treasurer, in the fund devoted to the proposed work or improvement, to pay for the land and improvements taken or damaged, and when in the discretion of the commissioners, or a majority of them, the time shall have come to make payments, it shall be the duty of the commissioners to notify the owner, possessor, or occupant of any land or improvements thereon to whom damages shall have been awarded, that a warrant has been drawn for the payment of the same, and that he can receive such warrant at the office of such commissioners upon tendering a conveyance of any property to be taken; such notification, except in the case of unknown owners, to be made by depositing a notice, postage paid, in the postoffice, addressed to his last known place of abode or residence. If at the expiration of thirty days after the deposit of such notice, he should not have applied for such warrant, and tendered a conveyance of the land to be taken, the warrant so drawn shall be deposited with the county treasurer, and shall be delivered to such owner, possessor, or occupant, upon tendering a conveyance as aforesaid, unless judgment of condemnation shall be had, when the same shall be canceled.

Proceedings to condemn on refusal to accept payment.

§ 18. If any owner of land to be taken neglects or refuses to accept the warrant drawn in his favor, as aforesaid, or objects to the report as to the necessity of taking his land, the commissioners, with the approval of the city council, may cause proceedings to be taken for the condemnation thereof, as provided by law under the right of eminent domain. The complaint may aver that it is necessary for the city to take or damage and condemn the said lands, or an easement therein, as the case may be, without setting forth the proceedings herein provided for, and the resolution and ordinance ordering said work to be done shall be conclusive evidence of such necessity. Such proceedings shall be brought in the name of the municipality, and have precedence so far as the business of the court will permit; and any judgment for damages therein rendered shall be payable out of such portion of the special fund as may remain in the treasury, so far as the same can be applied. At any time after trial and judgment entered, or preceding an appeal, the court may order the city treasurer to set apart in the city treasury a sufficient sum from the fund appropriated to the particular improvement to answer the judgment and all damages, and thereupon may authorize and order the municipality to enter upon the land and proceed with the proposed work and improvement. In case of a deficiency in said fund to pay the whole of such judgment and damages, the city council may,

in their discretion, order the balance thereof to be paid out of the general fund of the treasury or to be distributed by the commissioners over the property assessed by a supplementary assessment; but in the last-named case, in order to avoid delay, the city council may advance such balance out of any appropriate fund in the treasury, and reimburse the same from the collections of the assessment. Pending the collection and payment of the amount of the judgment and damages, the court may order such stay of proceedings as may be necessary.

Duty of treasurer on payment of warrants.

§ 19. The treasurer shall pay such warrants out of the appropriate fund, and not otherwise, in the order of their presentation; provided, that warrants for land or improvements taken or damaged shall have priority over warrants for charges and expenses, and the treasurer shall see that sufficient money is and remains in the fund to pay all warrants of the first class before paying any of the second.

Supplementary assessments, when may be ordered.

§ 20. If after the sale of the property for delinquent assessments there should be a deficiency, and there should be unreasonable delay in collecting the same, or if for the purpose of equalizing the assessments supplying a deficiency, or for any cause it appears desirable, the commissioners may so report to the city council, who may order them to make a supplementary assessment and report the same in manner and form as the original, and subject to the same procedure. If by reason of such supplementary assessment, or for any cause, there should be at any time a surplus, the city council may appropriate the same and declare a dividend pro rata to the parties paying the same, and they, upon demand, shall have the right to have the amount of such pro rata dividends refunded to them, or credited upon any subsequent assessment for taxes made against said parties in favor of said city.

Proceedings to settle defective title.

§ 21. If any title attempted to be acquired by virtue of this act shall be found to be defective from any cause, the city council may again institute proceedings to acquire the cause as in this act provided, or otherwise, or may authorize the commissioners to purchase the same and include the cost thereof in a supplementary assessment as provided in the last section.

Proceedings when boundaries of districts of lands affect the whole city.

§ 22. If the city council deem it proper that the boundaries of the districts of lands to be affected and assessed to pay the damages, cost and expenses of any work or improvement under this act, shall include the whole city, then the commissioners appointed shall proceed in a summary manner to purchase the lands to be taken or condemned from the owners and claimants thereof. If said commissioners and the owners and claimants cannot agree upon the price to be paid for said lands, they shall proceed to view and value the same, and shall thereupon make a summary report to the city council. Upon final confirmation of the

report, the city council, if there be not sufficient money available in the city treasury, shall cause the cost and expenses of the contemplated public improvement to be assessed upon the whole of the taxable property of said city, and to be included in and form part of the next general assessment-roll of said city, and with like effect in all respects as if the same formed a part of the city, state, and county taxes; and when the same shall have been collected the said city council shall cause the land required to be paid for or the value thereof tendered, and the said contemplated public improvement to be forthwith made and completed. All the provisions of the preceding sections not in conflict with this section shall be applicable thereto.

Use of words "work" and "improvement."

§ 23. 1. The words "work" and "improvement," as used in this act, shall include all work mentioned in section 1 of this act.

Notices to be posted when publication cannot be had.

2. In case there is no daily or weekly or semi-weekly newspapers printed and circulated in the city, then such notices as are herein required to be published in a newspaper shall be posted and kept posted for the length of time required herein for the publication of the same in a weekly newspaper, in three of the most public places in such city. Proof of the publication or posting of any notice provided for herein shall be made by affidavit of the owner, publisher or clerk of the newspaper or of the poster of the notice.

Construction of words "municipality" and "city."

3. The word "municipality" and the word "city" shall be understood and so construed as to include all corporations heretofore organized and now existing, or hereafter organized, for municipal purpose.

Construction of terms "street superintendent" and "superintendent of streets."

4. The terms "street superintendent" and "superintendent of streets," as used in this act, shall be understood and so construed as to include, and are hereby declared to include any person or officer whose duty it is, under the law, to have the care or charge of the streets, or the improvement thereof, in any city. In all those cities where there is no street superintendent or superintendent of streets, the city council thereof is hereby authorized and empowered to appoint a suitable person to discharge the duties herein laid down as those of street superintendent or superintendent of streets; and all the provisions hereof applicable to the street superintendent or superintendent of streets shall apply to such persons so appointed.

Construction of term "city council."

5. The term "city council" is hereby declared to include any body or board which, under the law, is the legislative department of the government of any city.

Construction of terms "clerk" and "city clerk."

6. The terms "clerk" and "city clerk," as used in this act, is hereby declared to include any person or officer who shall be clerk of said city council.

Construction of terms "treasurer" and "city treasurer."

7. The term "treasurer" or "city treasurer," as used in this act, shall include any person or officer who shall have charge and make payment of the city funds.

8. No publications or notice other than that provided for in this act shall be necessary to give validity to any proceedings had thereunder.

Proceedings commenced before passage of this act to be continued by resolution of council.

§ 24. The proceedings and any work or improvement, such as is provided for in this act, already commenced, and now progressing under any other act now in force, or by virtue of any ordinance passed by any city council or board of supervisors of any city, county, or city and county, by virtue of any other act now in force, may, from any stage of such proceedings already commenced and now progressing, be continued under this act by resolution of the city council. The said work or improvement may then be conducted under the provisions of this act with full force and effect in all respects, from the stage of such proceedings under such other acts or ordinances at and from which such resolution shall declare an election or intention to have said work or improvement cease under such other act or ordinance, and continue under this act; and from such election so made, all proceedings theretofore had under such other act or ordinance are hereby ratified, confirmed, and made valid, and it shall be unnecessary to renew or conduct over again proceedings had under such other act or ordinance. This section shall not apply to any work or improvement, proceedings in which were commenced more than eighteen months prior to the passage of this act.

Act to be liberally construed.

§ 25. The provisions of this act shall be liberally construed to promote the objects thereof. This act shall take effect and be in force from and after its passage.

ACT 3928.

An act to provide for the laying out, opening, extending, widening, or straightening, in whole or in part, of public streets, squares, lanes, alleys, courts, and places, within municipalities, for the condemnation of property necessary or convenient for such purposes, and for the establishment of assessment districts and the assessment of property therein to pay the expense of such improvement.

[Approved March 24, 1903. Stats. 1903, p. 376.]

Amended 1909, p. 1035.

Citations. Cal. 153/292. App. 7/526, 527; 8/608, 609, 610, 611.

§ 1. Whenever the public interest or convenience may require, the city council of any municipality shall have full power and authority to order the laying out, opening, extending, widening, or straightening, in whole or in part, of any public street, square, lane, alley, court, or place within such municipality, and to acquire, by condemnation, any and all property necessary or convenient for that purpose.

§ 2. Before ordering any improvement to be made, which is authorized by section 1 of this act, the city council shall pass an ordinance declaring its intention to do so, describing the improvement, and the land necessary or convenient to be taken therefor, and specifying the boundaries of the district to be benefited by said improvement, and to be assessed to pay the expense thereof, and to be known as the assessment district.

§ 3. The street superintendent shall thereupon cause to be conspicuously posted along all streets and parts of streets within the assessment district described in said ordinance, at not more than three hundred feet in distance apart, notices (not less than three in all) of the passage of said ordinance. Said notices shall be headed, "Notice of Public Work," in letters not less than one inch in length, shall be in legible characters, and shall state the fact and date of the passage of said ordinance, and briefly describe the improvement proposed, and refer to said ordinance for further particulars. He shall also cause a notice similar in substance to be published for a period of five days, in a daily newspaper published and circulated in said municipality, and designated by said city council for that purpose, or if there is no such daily newspaper, then by four successive insertions in a weekly newspaper so published, circulated, and designated.

§ 4. Any person interested, objecting to said improvement, or to the extent of the assessment district, described in said ordinance of intention, may file a written protest with the clerk of the city council, within thirty days after the first publication of the notice required by section 3 of this act. Every such protest must contain a description of the property in which each signer thereof is interested, sufficient to identify the same, and must set forth the nature of his interest therein, and must be accompanied by the affidavit of one of the signers thereof that each signature thereof is the genuine signature of the person whose name is thereto subscribed; and in case any signature is made by an agent, there must be attached to the protest the affidavit of the agent that he is duly authorized to sign such protest. Any protest not complying with the foregoing requirements, shall not be considered by the city council. In the case of property held by tenancy in common, if any cotenant sign such protest, only the proportionate share of the frontage thereof represented by his interest therein, shall be counted in determining the amount of frontage represented by such protest. The clerk shall endorse on every such protest the date of its reception by him, and, at the next regular meeting of the city council, after the expiration of the time for filing protests, he shall present to said city council all protests so filed with him. If such protests are against said improvement, and said city

council finds that the same are signed by the owners of a majority of the frontage of the property fronting on streets or parts of streets within said assessment district, all further proceedings under said ordinance of intention, excepting in the cases hereinafter otherwise provided, shall be barred, and no new ordinance of intention for the same improvement shall be passed within six months after the presentation of such protest to the city council, unless the owners of a majority of the frontage of the property fronting on streets or parts of streets within said assessment district shall in the meantime petition therefor. If such protests are against the improvement, and the council finds that they are not signed by the owners of a majority of the frontage of the property fronting on streets or parts of streets within said assessment district, or if such protests are only against the extent of said assessment district, or if the proposed improvement is for the opening or extending of a street for a distance of not more than two blocks intervening between the terminations of two different streets, or two portions of the same street, existing at the time of the passage of the ordinance of intention for the proposed improvement, each of said different street or said portions of the same street being at least five blocks in length, and the opening or extending of the street described in the ordinance of intention through such intervening block or blocks will, together with such different streets or portions of the same street so existing, make one connecting or continuous street, as nearly as may be practicable, or if the proposed improvement is for the opening or extending of a street into a different street, for a distance of not more than one block intervening between the termination of such street so proposed to be opened or extended and such different street, when the street so proposed to be opened or extended through such intervening block exists, at the time of the passage of the ordinance of intention for a distance of at least five blocks, or if the proposed improvement is for the opening or extending of a public street, lane, alley, court or place through the remainder of a block when such public street, lane, alley, court or place exists, at the time of the passage of the ordinance of intention for the proposed improvement, for at least one-half of the distance through such block, the city council shall thereupon fix a time for hearing said protests, not less than ten days after the meeting of the council at which such time is so fixed, and shall cause notice of the time of such hearing to be published for at least five days in a daily newspaper published and circulated in said city, or if there be no such daily newspaper, by at least two insertions in a weekly newspaper so published and circulated. The city council shall hear said protests at the time appointed, or at any time to which the hearing thereof may be adjourned, and pass upon the same, and its decision thereon shall be final and conclusive. If any such protests are sustained, no further proceedings shall be had under said ordinance of intention, but a new ordinance of intention for the same improvement may be passed at any time. If the protests are denied, the proceedings shall continue as if such protests had not been made. At the expiration of the time within which protests may be filed, if none are filed, or if protests are filed, and after hearing are denied, as above provided, then

upon such denial, the city council shall acquire jurisdiction to order the improvement described in the ordinance of intention. [Amendment approved April 21, 1909. Stats. 1909, p. 1035.]

§ 5. Having acquired jurisdiction, the city council, shall, by ordinance, order said improvement to be made, and direct an action to be brought by the city attorney, in the proper superior court, in the name of the municipality, for the condemnation of the property necessary or convenient to be taken therefor. Such ordinance need not describe the property to be taken, nor the assessment district, but may refer to the ordinance of intention for all particulars.

§ 6. Said action must be brought within sixty days after the passage of the ordinance ordering the improvement, but the council may, by ordinance, extend the time for bringing such action for an additional period not exceeding ninety days. Said action shall in all respects be subject to and governed by such provisions of the Code of Civil Procedure now existing or that may be hereafter adopted, as may be applicable thereto, except in the particulars otherwise provided for in this act. [Amendment approved April 21, 1909. Stats. 1909, p. 1037.]

§ 7. The complaint shall set forth, or state the effect of, the ordinance of intention, and the ordinance ordering the improvement, but need not set up any other proceedings had before the bringing of the action. Said ordinances shall be conclusive evidence, in such action, of the public necessity of the proposed improvement, and also that the same is located in the manner which will be most compatible with the greatest public good and the least private injury.

§ 8. When all parties defendant to the action have answered, or have been served with summons, and their default entered, the plaintiff or any party defendant to the action whose default has not been so entered, may, upon five days' notice to the parties, except defendants in default, move the court to set the action for trial. If, upon the hearing of such motion, a trial by jury or by the court without a jury is not demanded by the defendants, or any of them, or by the plaintiff, such trial shall be deemed to be waived, and the court must appoint three disinterested persons referees, to ascertain the compensation to be paid to such defendants so waiving a trial by a jury, or by the court without a jury. Such referees must be residents of the municipality where such improvement is to be made, and over the age of twenty-one years, and must take and file with the court an oath to discharge their duties faithfully and impartially. If any of such referees fails to qualify, or resigns, or is removed by order of court, or is or becomes unable to act, the vacancy so created shall be filled by the court. [Amendment approved April 21, 1909. Stats. 1909, p. 1037.]

§ 9. The referees shall at once proceed to view the lands sought to be condemned, and ascertain the compensation proper to be paid to such of the parties interested in each parcel thereof as have waived a

trial by a jury, or by the court. They shall have power to examine witnesses under oath, to be administered by any of them, and may have subpoenas issued by the clerk of the court, requiring the attendance of witnesses, or the production of evidence before them. They shall make and file with the court a written report of their findings, and of their necessary expenses, within thirty days after the date of their appointment; provided, however, that the time so allowed may be extended, upon good cause shown, by the court or judge thereof, but such extension shall not exceed ninety days; and provided further, that if any vacancy in the referees is created and filled as provided in section 8 of this act, or if new referees are appointed, or if a new report from the same referees is ordered, as provided in section 11 of this act, the time herein specified for the filing of such report shall be deemed to be thirty days from the date of the order filling such vacancy, or appointing new referees, or ordering a new report from the same referees, and the same may be extended accordingly, as above provided. Any two of such referees who agree thereto, may make such report. [Amendment approved April 21, 1909. Stats. 1909, p. 1038.]

§ 10. For the purpose of assessing the compensation and damages, the right thereto shall be deemed to have accrued at the date of the order appointing referees or of the order setting the cause for trial, as the case may be, and its actual value at that date shall be the measure of compensation for all property to be actually taken, and the basis of damages to property not actually taken, but injuriously affected, in all cases where such damages are allowed by the provisions of this act. No improvements placed upon the property proposed to be taken, subsequent to the date of the publishing of the notice of the passage of the ordinance of intention, shall be included in the assessment of compensation or damages.

The referees, or court, or jury, as the case may be, shall find separately:

First. The value of each parcel of property sought to be condemned, and all improvements thereon pertaining to the realty, and of each separate estate or interest therein;

Second. If any parcel of property sought to be condemned is only a part of a larger parcel, the damages which will accrue to the portion not sought to be condemned, and to each separate estate or interest therein, by reason of its severance from the portion sought to be condemned, and the construction of the improvement in the manner proposed by the plaintiff. Such damages must be fixed irrespective of any benefit from such improvement. [Amendment approved April 21, 1909. Stats. 1909, p. 1038.]

§ 11. Upon the filing of such report the court must, upon motion of any party, appoint a day for hearing the same, not less than twenty days thereafter. Notice of the time and place of said hearing must, at least ten days before the time so appointed, be served on all the other parties, except defendants whose default has been entered. The plaintiff, or any defendant who has answered, may file exceptions in writing to said re-

port, specifying the grounds upon which such exceptions are based, at any time within not less than one day prior to the hearing; and any such party so filing exceptions to said report, may appear at the hearing of said report and contest the same. In addition to the notice hereinbefore provided, the clerk of the court must give notice of the filing of said report, and of the time and place appointed for the hearing of the same, to all persons owning or having an interest in any property included within the assessment district for said improvement described in the ordinance of intention, by causing said notice last mentioned to be published for five days in a daily newspaper published and circulated in the city; and, if there be no such daily newspaper, then by two insertions in a weekly newspaper so published and circulated. Any publication of such notice shall commence at least ten days before the time appointed for the hearing of the report. Said notice shall require all persons owning or having an interest in any property included within said assessment district for said improvement to intervene in said action, and file, in the office of the clerk of said court, his exceptions in writing to said report, if any he has, specifying the grounds upon which such exceptions are based. Said notice shall also contain a description of the said assessment district as set forth in the ordinance of intention. At any time within not less than one day prior to the hearing, any person not a party to the action, owning or having an interest in any property included within said assessment district, may intervene in the action, and file his exceptions in writing to said report, specifying the grounds upon which such exceptions are based; and any such person so intervening may appear and contest the said report, and introduce evidence in support of such exceptions. After hearing the report, and any exceptions thereto, the court may confirm the report, or may modify it and confirm it as modified, or may set it aside and order a new report from the same referees, or from new referees to be appointed. If new referees are appointed, the same proceedings shall be had as upon the first reference.

If there be a trial of the action by a jury, or by the court without a jury, the clerk of the court must give notice of the time and place of such trial to all persons owning or having an interest in any property within said assessment district for said improvement. Said notice shall be published in the same manner and for the same time as the notice hereinbefore in this section required to be given by said clerk, and shall require all persons owning or having an interest in any property included within said assessment district for said improvement, to intervene in said action, and to appear at the trial thereof and introduce evidence relative to the compensation and damages to be awarded to the defendants therein. At any time within not less than one day prior to the trial, any person not a party to the action, having an interest in any property included within said assessment district, may intervene in the action, and, upon the trial thereof, may appear and introduce evidence relative to the compensation and damages to be awarded to the defendants therein. The cost of the publication of the notices required by this section shall be paid by the plaintiff, and allowed as costs in the action.

When a time has been appointed for hearing the report of the referees, or for the trial of the action, and notice thereof has been given by the clerk by publication as in this section provided, if the hearing or trial be postponed or continued by the court to any subsequent date, no such notice need be given by the clerk of the hearing or trial upon any such postponement or continuance. [Amendment approved April 21, 1909. Stats. 1909, p. 1039.]

§ 12. Upon the confirmation of the report of the referees, or receipt of the verdict of the jury, or the filing of the findings of the court, the court shall make and enter an interlocutory judgment in accordance with such report, verdict or findings, adjudging that upon payment to the respective parties, or into court for their benefit, of the several amounts found due them as compensation, and of the costs allowed to them, the property involved in the action shall be condemned to the use of the plaintiff, and dedicated to the use specified in the complaint. The court shall allow to the referees, as costs to be paid by the plaintiff, a reasonable compensation for their services, the amount of which compensation shall be fixed by the court upon the hearing of the report, and their necessary expenses. [Amendment approved April 21, 1909. Stats. 1909, p. 1040.]

§ 13. An appeal may be taken from such interlocutory judgment within thirty days from the entry thereof, and from any order granting or denying a new trial within ten days after the entry thereof.

§ 14. The city council may, at any time prior to the entry of the interlocutory judgment, abandon the proceedings by ordinance, and cause the said action to be dismissed without prejudice. [Amendment approved April 21, 1909. Stats. 1909, p. 1040.]

§ 15. Upon the entry of the interlocutory judgment, the city council shall order the city engineer, or if there be no city engineer, any civil engineer whom it may employ for that purpose, to make and deliver to the street superintendent, a diagram of the improvement and of the property within the assessment district described in the ordinance of intention. Said diagram shall show the land to be taken for the proposed improvement, and also each separate lot, piece or parcel of land within the assessment district, and the dimensions of each such lot, piece, or parcel of land, and the relative location of the same to the proposed improvement.

§ 16. The city engineer shall deliver said diagram to the street superintendent, and shall indorse thereon the date of such delivery. The street superintendent upon receiving the said diagram shall proceed to assess the total expenses of the proposed improvement upon and against the lands, including the property of any railroad or street railroad, within said assessment district, except the land to be taken for such improvement, in proportion to the benefits to be derived from said improvement. The street superintendent shall complete said assessment

within sixty days after the receipt by him of said diagram; provided, however, that the city council may by order extend the time for completing said assessment for a period not exceeding ninety days additional. The total expense of the improvement so to be assessed shall include the amounts awarded to the defendants by the interlocutory judgment in the action for condemnation, together with their costs, the compensation and expenses of the referees, as allowed by the court, and all other costs of the plaintiff in such action, the expenses of making the assessment, and all expenses necessarily incurred by said city, in connection with the proposed improvement, for the publication of ordinances, posting and publication of notices, for maps, diagrams, plans, surveys, searches and certificates of title to the property to be taken, and all other matters incident thereto. [Amendment approved April 21, 1909. Stats. 1909, p. 1040.]

§ 17. The street superintendent shall make the said assessment in writing. Such assessment shall describe each lot, piece, or parcel of land assessed for said improvement, and shall designate each such lot, piece, or parcel of land with an appropriate number. The street superintendent shall also designate each such lot, piece, or parcel of land on said diagram, with the number corresponding with the number thereof in said assessment, and said diagram shall thereupon be attached to and become and be deemed to be a part of said assessment. Such assessment shall show the total sum to be raised thereby, as hereinbefore provided, and also the items of such total sum, and opposite each lot, piece, or parcel of land assessed, the amount assessed thereon, and the name of the owner thereof, if known to the street superintendent; or if the owner's name is unknown, the word "Unknown" shall be written instead of such name. Any error or mistake in the designation of the owner of any lot, piece, or parcel of land, or in the particulars of his interest therein, shall not affect the validity of the assessment.

§ 18. As soon as said assessment is completed the street superintendent shall file the same, with the diagram attached thereto and made a part thereof as aforesaid, with the clerk of the council, who shall give notice of such filing by publication for, at least, ten days in a daily newspaper published and circulated in the city, or if there be no such daily newspaper, by three successive insertions in a weekly newspaper so published and circulated. Said notice shall require all persons interested to file with said clerk their objections, if any they have, to the confirmation of said assessment, within thirty days after the date of the first publication of such notice, which date shall be stated in said notice.

§ 19. All objections shall be in writing and shall be filed with said clerk within the time prescribed in the notice required by section 18 hereof. The clerk shall, at the next regular meeting of the city council after the expiration of the time for filing objections, lay said assessment and all objections so filed with him, before the council; and said council shall hear all such objections at said meeting, or at any other time to which the hearing thereof may be adjourned, and pass upon such assess-

ment, and may confirm, modify, or correct said assessment, or may order a new assessment, upon which like proceedings shall be had, as in the case of an original assessment; or if there be no objections, the council shall, at any regular meeting after the expiration of the time for filing objections, confirm such assessment, and the action of the council upon such objections and assessment shall be final and conclusive in the premises.

§ 20. The clerk of the council shall thereupon deliver to the street superintendent the assessment as confirmed by the city council, with his certificate of such confirmation, and of the date thereof. The street superintendent shall thereupon record such assessment and diagram in his office, in a suitable book to be kept for that purpose, and append thereto his certificate of the date of such recording, and such record shall be the assessment-roll. From the date of such recording all persons shall be deemed to have notice of the contents of such assessment-roll. Immediately upon such recording, the several assessments contained in such assessment-roll shall become due and payable, and each of such assessments shall be a lien upon the property against which it is made.

§ 21. The owner of any property assessed, who is entitled to compensation under the award made by the interlocutory judgment, may, at any time after such assessment becomes payable, and before the sale of said property for nonpayment thereof, as hereinafter provided, demand of the street superintendent that such assessment, or any number of such assessments, be offset against the amount to which he is entitled under said judgment. Thereupon, if said amount is equal to or greater than such assessments, including any penalties and costs due thereon, the assessments shall be marked "Paid by offset"; and if the said amount is less than the assessments, and any penalties and costs due thereon, the person demanding such offset shall at the same time pay the difference to the street superintendent in money, and the assessments shall, on such payment, be marked paid, the entry showing what part thereof is paid by offset and what part in money. In either case, as a condition of the offset, such person must execute to the city and deliver to the street superintendent duplicate receipts for such part of the amount due him under said interlocutory judgment as is offset against such assessments, penalties, and costs. One of said duplicate receipts shall be filed by the street superintendent in his office, the other shall be filed with the clerk of the superior court, and on such filing, the city shall be entitled to a satisfaction pro tanto of said interlocutory judgment.

§ 22. The street superintendent shall, upon the recording of said assessment, give notice, by publication for ten days in a daily newspaper, published and circulated in such municipality, or by three successive insertions in a weekly newspaper, so published and so circulated, that said assessment has been recorded in his office, and that all sums assessed therein are due and payable immediately, and that the payment of the said sums is to be made to him within thirty days after the date of the first publication, which date shall be stated in the notice. Said notice shall also contain a statement that all assessments not paid before the

expiration of said thirty days will become delinquent, and that thereupon five per cent upon the amount of each such assessment will be added thereto. When payment for any assessment is made, the street superintendent shall mark opposite such assessment, the word, "Paid," the date of payment, and the name of the person by or for whom the same is paid, and shall, if so requested, give receipt therefor. On the expiration of said period of thirty days, all assessments then unpaid shall become delinquent, and the street superintendent shall certify such fact at the foot of said assessment-roll, and mark each such assessment "Delinquent," and add five per cent to the amount of each assessment delinquent.

§ 23. The street superintendent shall, within ten days from the date of such delinquency, begin the publication of a list of the delinquent assessments, which list must contain a description of each parcel of property delinquent, and opposite or against each description, the name of the owner as stated in the assessment-roll, and the amount of the assessment, penalty, and costs due, including the cost of advertising, which last shall not exceed the sum of fifty cents for each lot, piece, or parcel of land, separately assessed. The street superintendent shall append to and publish with said delinquent list a notice that unless each assessment delinquent, together with the penalty and costs thereon, is paid, the property upon which such assessment is a lien, will be sold at public auction at a time and place to be specified in the notice. The publication must be made for a period of ten days, in some daily newspaper published and circulated in the municipality, or for three weeks in a weekly newspaper so published and circulated. The time of sale must not be less than five days, nor more than ten days, after the expiration of the period of publication of said list, and the place of sale must be in, or in front of, the office of the street superintendent.

§ 24. At any time after such delinquency, and prior to the sale of any piece of property assessed and delinquent, any person may pay the assessment on such piece of property, together with the penalty, and costs then due, including the cost of advertising, if such payment is made after the first publication of the list of delinquent assessments. The street superintendent shall thereupon mark such assessment "Paid," as hereinbefore provided.

§ 25. On the day fixed for the sale, the street superintendent must, at the hour of 10 o'clock A. M. commence the sale of the property advertised, commencing at the head of the list, and continuing in the numerical order of lots or parcels of land until all are sold; provided, that he may postpone or continue the sale from day to day until all the property is sold. Each lot, piece or parcel of land separately assessed must be offered for sale separately, and the person who will take the least quantity of land, and then and there pay the amount of the assessment, penalty, and costs due, including fifty cents to the street superintendent for a certificate of sale, shall become the purchaser. In case there is no purchaser, for any lot, piece or parcel of land so offered for sale, the same shall be struck off to the municipality, as purchaser, and

the city council shall appropriate out of the general fund of the treasury, the amount required for such purchase, and shall order the city treasurer to place the same in the special fund for such improvement. No charge shall be made for the certificate of sale when the municipality is the purchaser.

§ 26. After making the sale, the street superintendent must execute, in duplicate, a certificate of sale setting forth a description of the property sold, the name of the owner thereof, as given on the assessment-roll, that said property was sold for a delinquent assessment, (specifying the improvement for which the same was made), the amount for which such property was sold, the date of sale, the name of the purchaser, and the time when the purchaser will be entitled to a deed. The street superintendent must file one copy of such certificate in his office, and deliver the other to the purchaser, or if the municipality is the purchaser, to the clerk of the council, who shall file the same in his office. On the filing of the copy of such certificate in the office of the street superintendent, the lien of the assessment shall vest in the purchaser, and is only divested by a redemption of the property, as in this act provided. The street superintendent shall also enter on the assessment-roll, opposite the description of each piece of property offered for sale, a description of the part thereof sold, the amount for which the same was sold, the date of the sale, and the name of the purchaser.

§ 27. A redemption of any parcel of property sold for delinquent assessment may be made by any party in interest, at any time prior to the execution and delivery of a deed therefor, by paying to the street superintendent the amount for which the property was sold, and in addition thereto, ten per cent thereon if paid within three months from the date of sale; twenty per cent if paid within six months; thirty per cent if paid within nine months; forty per cent if paid within twelve months, or fifty per cent if paid at any time after twelve months. When redemption is made, the street superintendent shall note that fact on the duplicate certificate of sale on file in his office, and deposit the amount paid with the city treasurer, who shall credit the purchaser named in the certificate of sale with the said amount, and pay the same to such purchaser, or his assignee, upon the surrender of the certificate of sale, and upon satisfactory proof of assignment thereof, if any. When the municipality is the purchaser, the treasurer shall notify the clerk of the council of the redemption, and such clerk shall thereupon cancel the certificate of sale on file in his office.

§ 28. At any time after the expiration of twelve months from the date of sale, the street superintendent must execute to the purchaser, or his assignee on his application, if such purchaser or assignee has complied with the provisions of this section, a deed of the property sold, in which shall be recited substantially the matters contained in the certificate, also any assignment thereof and the fact that no person has redeemed the property. The street superintendent shall receive from the applicant for a deed, one dollar for making such deed, unless the municipality is the

purchaser, in which case no charge shall be made therefor. The purchaser or his assignee must, at least thirty days before he applies for a deed, serve upon the owner of the property, and upon the occupant of such property, if the same is occupied, a written notice, setting forth a description of the property, that said property has been sold for a delinquent assessment (specifying the improvement for which the same was made), the amount for which it was sold, the amount necessary to redeem at the time of giving notice, and the time when such purchaser or assignee will apply to the street superintendent for a deed. If the said owner cannot be found, after due diligence, said notice must be posted in a conspicuous place upon said property, at least thirty days before the time stated therein, at which the application for a deed will be made. The person applying for a deed must file with the street superintendent an affidavit or affidavits showing that notice of such application has been given, as herein required, and if the notice was not served on the owner of the property personally, that due diligence was used to find said owner; which affidavit or affidavits must be filed by the street superintendent in his office. If redemption of the property is made after such affidavits are filed, and more than eleven months from the date of sale, the person making such redemption must pay, in addition to the other amounts required, three dollars for the service of notice and the making of such affidavits, which amount shall be paid over to the purchaser or his assignee in the same manner as other sums paid for redemption. No deed for any property sold for delinquent assessment shall be made until the purchaser or his assignee has complied with all the provisions of this section, and filed the proper affidavits with the street superintendent.

§ 29. The deed of the street superintendent shall be prima facie evidence of the truth of all matters recited therein, and of the regularity of all proceedings prior to the execution thereof, and of title in the grantee.

§ 30. The street superintendent shall, from time to time, pay over to the city treasurer all moneys collected by him on account of any assessments made under the provisions of this act. The city treasurer shall on receipt thereof, place the same in a special fund, designating such fund by the name of the improvement for which the assessment was made.

§ 31. As soon as there is sufficient money in the hands of the city treasurer, in the special fund devoted to the proposed improvement, to pay the amounts awarded to the defendants by the interlocutory judgment in the action of condemnation, or such parts thereof as have not been paid by offset against assessments, as hereinbefore provided, the said amounts shall be paid to the parties entitled thereto, or into court for their benefit. On satisfactory proof being made to the court of payment of the amounts awarded by the interlocutory judgment to the respective parties entitled thereto, or into court for their benefit, it shall direct the interlocutory judgment to be satisfied, and shall make and enter a final

judgment, condemning the lands described in the complaint to the use of the plaintiff for the purposes specified in such complaint.

§ 32. In case of a deficiency in the fund for such improvement, the city council, in its discretion, may provide for such deficiency by an appropriation out of the general fund of the treasury, or by ordering a supplementary assessment to be made by the street superintendent upon the property in said assessment district in the same manner and form, and subject to the same procedure as the original assessment, and in the last named case, in order to avoid delay, the city council may advance such deficiency out of the city treasury and reimburse the treasury from the collections under such supplementary assessment. In case of a surplus in the fund for such improvement, the city council may order such surplus refunded pro rata to the parties who paid the assessments.

§ 33. The following words and phrases shall, where used in this act, have the following meanings:

(1) The term "improvement" includes all of the improvements mentioned in section 1 of this act.

(2) The terms "municipality" and "city" include all incorporated cities, cities and counties, and other corporations organized for municipal purposes.

(3) The terms "city council" and "council" include any body or board in which by law is vested the legislative power of any municipality.

(4) The terms "clerk" and "city clerk" include any person or officer who acts as clerk of said city council.

(5) The terms "treasurer" and "city treasurer" include any person or officer who has charge and makes payment of the city funds.

(6) The term "street superintendent" includes any officer or board whose duty it is by law to have the care or charge of streets or the improvement thereof, in any city. In any city where there is no street superintendent, or no such board, the city council thereof is hereby authorized to appoint a suitable person to perform the duties imposed by this act on the street superintendent, and all the provisions hereof applicable to the street superintendent shall apply to the person so appointed.

(7) The terms "owner" and "any person interested" include the person owning the fee, or the person in whom, on the day any protest or petition is filed, the legal title to real property appears, by deeds duly recorded in the county recorder's office of the county in which said city is situated, or any person in possession of real property, as the executor, administrator, trustee under an express trust, guardian or other legal representative of the owner, or any person in possession of real property under a written contract of purchase thereof duly recorded, or any person in possession of real property, as lessee thereof under a lease duly recorded, which shall require such lessee to pay or discharge all assessments for street or other public improvements, that may be levied or assessed against such real property. [Amendment approved April 21, 1909. Stats. 1909, p. 1041.]

§ 34. In case there is no daily or weekly newspaper published and circulated in the city, then such notices and delinquent lists as are herein required to be published in a newspaper shall be posted in three of the most public places in such city, for the length of time required herein for the publication of the same in a weekly newspaper. No publication or notice other than that provided in this act shall be necessary to give validity to any proceedings had thereunder.

§ 35. Proof of publication of any notice required by this act shall be made by affidavit, as provided in the Code of Civil Procedure, and proof of the posting of any such notice shall be made by the affidavit of the person posting the same, setting forth the facts regarding such posting. It shall be the duty of any officer who is required by this act to have any notice published or posted, to obtain and file in his office the affidavit or affidavits in proof thereof; provided that his failure so to do shall not affect the validity of any proceedings under this act. Any such affidavit so filed shall be prima facie evidence of the facts therein stated regarding such publication or posting.

§ 36. This act shall in no wise affect an act entitled, "An act to provide for laying out, opening, extending, widening, straightening, or closing up, in whole or in part, any street, square, lane, alley, court, or place within municipalities, and to condemn and acquire any and all land and property necessary or convenient for that purpose," approved March 6, 1889, or amendments thereto, or any other acts on the same subject, or apply to proceedings had thereunder, but it is intended to and does provide an alternate system of proceedings for making the improvements provided for by this act; and it shall be within the discretion of the city council or any municipality to proceed in making such improvements, either under the provisions of this act, or under the provisions of such other acts; but when any proceedings are commenced under this act, the provisions of this act, and of such amendments thereof as may be hereafter adopted, and no other, shall apply to all such proceedings, and any provisions contained in said acts or any acts in conflict with the provisions hereof shall be void and of no effect as to the proceedings commenced under the provisions of this act. The election of the city council to proceed under the provisions of this act shall be expressed in its ordinance of intention to order the work done.

§ 37. The provisions of this act shall be liberally construed to promote the objects thereof. This act may be designated and referred to as the "Street Opening Act of 1903," and shall take effect and be in force upon its passage and approval.

The amendatory act of April 21, 1909, contained also the following: "§ 11. Any proceeding or action for any improvement, such as is provided for in this act, or in said act to which this act is amendatory, already commenced and pending at the time this act takes effect, under or by virtue of any ordinance of intention theretofore passed, shall, from the stage of any such proceeding or action already commenced and in progress at the time this act takes

effect, be continued under the provisions of this act. Any such proceeding or action shall then be continued and conducted under the provisions of this act, with full force and effect in all respects from the stage of such proceeding or action at and from the taking effect of this act; and from the taking effect of this act all proceedings theretofore had for any such improvement, and all proceedings theretofore had or taken in any such action, are hereby ratified, confirmed, and made valid, and it shall not be necessary to renew or conduct over again any such proceedings or actions, commenced prior to the taking effect of this act."

ACT 3929.

An act to provide for local improvements upon streets, lanes, alleys, courts, places, and sidewalks, and for the construction of sewers within municipalities, such act to be known as "The Local Improvement Act of 1901."

[Became a law under constitutional provisions without governor's approval, February 26, 1901. Stats. 1901, p. 34.]

Citation. Cal. 142/700.

§ 1. All streets, lanes, alleys, places, or courts in the municipalities of this state, now open or dedicated, or which may hereafter be opened or dedicated to public use, shall be deemed and be held to be open public streets, lanes, alleys, places, or courts, for the purposes of this act, and the legislative body of each municipality is hereby empowered to establish and change the grades of said streets, lanes, alleys, places, or courts, and fix the width thereof, and is hereby invested with jurisdiction to order to be done thereon any of the work mentioned in section 2 of this act, under the proceedings hereinafter described.

§ 2. Whenever the public interest or convenience may require, the legislative body is hereby authorized and empowered to order the whole, or any portion, either in length or width, of the streets, avenues, lanes, alleys, courts, or places of any such municipality graded or regraded to the official grade, planked or replanked, paved or repaved, macadamized or remacadamized, graveled or regraveled, piled or repiled, capped or recapped, sewerred or resewered, supplied or resupplied with drains for storm-water or other purposes, and to order sidewalks, parkways, manholes, catch basins, culverts, cesspools, gutters, tunnels, curbing, and cross-walks to be constructed therein, or to order breakwaters, levees, or walls of rock, or other material, to protect the same from overflow or injury, and to order any other work to be done which shall be necessary to complete the whole or any portion of said streets, avenues, sidewalks, lanes, alleys, courts, or places, and it may order any of the said work to be improved, and also to order a sewer or sewers, with outlets, for drainage or sanitary purposes, in, over, or through any right of way granted or obtained for such purpose; and to provide for the maintenance of any such work.

§ 3. Before ordering any work done or improvement made, which is authorized by section 2 of this act, the legislative body shall pass a

resolution referring the proposed work to the city engineer, if there be one, and, if not, to some civil engineer employed by them for the purpose and named in the resolution, and instructing him to make to the legislative body a report in writing, containing his recommendations as to the best method of doing said work or of making said improvement, to which report shall be attached the exhibits hereinafter referred to.

§ 4. Thereafter, the said engineer shall file with the clerk of the municipality the report called for by section 3 above, and annex thereto the following exhibits, to wit:

1. A description of the work to be done; said work may include one or more streets in the same proceeding;

2. A description of the exterior boundaries of the district which will be benefited by the proposed improvement and should be specially assessed to pay the cost thereof;

3. Plans, profiles, cross-sections and specifications of the work required in order to accomplish said improvement;

4. An estimate of the expense of said improvements, deducting therefrom the estimated cost of so much, if any, of said improvements as may be by law required to be done by railroads having tracks upon the streets affected;

5. A map showing the district above referred to, and also the subdivisions of the property within said district, as ascertained by said engineer, each of which subdivisions shall be given upon said map a separate number in red ink;

6. A list referring to the said subdivisions upon said map by the respective red ink numbers thereof, and showing the names of the owners, if known, otherwise designating them as unknown, and the valuations of said respective subdivisions, as the same appear upon the last assessment-roll of said municipality, if they so appear, otherwise as estimated by said engineer, also the dimensions, areas, and his estimates of the benefits which the respective parcels will receive from said improvement;

7. An estimate of all incidental expenses likely to be incurred in connection with the work, such as clerical, engineering, inspection, printing and advertising.

§ 5. After the report of the engineer provided for in the next preceding section has been filed with the clerk of the municipality, the legislative body of said municipality shall consider the same and have the power, by resolution, to adopt the same as filed by said engineer, or as modified by the legislative body, and levy the assessment accordingly, but the same shall not constitute a lien until all parties interested have had an opportunity to be heard as hereinafter provided; in the same resolution the legislative body shall set forth the following:

1st. The rate of interest to be charged upon deferred payments;

2d. The time to be allowed upon deferred payments;

3d. The rate of interest to be allowed upon bonds issued to cover deferred payments;

4th. The time for which bonds issued to cover deferred payments are to run;

5th. The day and hour when and where any and all persons may appear before the legislative body and show cause, if any they have, why said improvement provided for in said resolution should not be carried out in accordance therewith; said time to be not less than thirty nor more than sixty days from the date of passage of said resolution;

6th. A description of the exterior boundaries of the district declared by the legislative body to be benefited by the proposed improvement and assessed to pay the costs and expenses thereof.

The rate of interest above referred to shall not exceed seven per cent, and in the same resolution the legislative body shall provide, if they so determine, that the work covered by said resolution shall include maintenance thereof for a stated number of years to be fixed by said resolution.

§ 6. After the passage of the resolution mentioned in section 5 hereof there shall be conspicuously posted in three of the most public places within the municipality, and also along the street frontages of all the real property within the district, at not more than one hundred feet in distance apart, notices of the hearing provided for in section 5; said notices shall be headed, "Notice of Local Improvement," in letters of not less than one inch in length, and shall in legible characters state the fact of the passage of the resolution mentioned in section 5, and briefly describe the work of improvement proposed, and refer to said resolution for further particulars; said notice shall also state the date, hour and place for which the said hearing has been set, and shall notify all parties interested in any real estate within the limits of said district then and there to show cause, if any they have, why the said improvements proposed in said resolution should not be carried out in accordance therewith; said notice shall also contain a description of the district covered by the resolution by the exterior boundaries thereof, said description to be in bold-face type; said notices must be posted at least twenty days before the time set for the hearing, and must be published twice in some newspaper of general circulation, published within the municipal corporation in which the improvements are to be made, at least ten days before the date of hearing.

§ 7. At the time named in the notice hereinbefore provided for for said hearing there shall be filed with the legislative body an affidavit that the notice has been posted as hereinbefore provided for, and an affidavit of the printer or publisher of the newspaper in which said notice has been published that the same has been published as hereinbefore provided for, and the legislative body, before proceeding with said hearing, shall have entered upon the minutes of the meeting an order reciting that notice of said hearing has been posted and published according to law, and such recitals shall be conclusive evidence of the facts therein recited, and the legislative body shall thereupon proceed with the hearing of any objections which shall have been made in writing and filed with the clerk of the municipality not later than the hour for hearing named in said notice, and no other objections shall be considered. Said hearing may be continued from time to time by the legislative body,

and all parties interested shall be deemed to have notice of said continuances. All objections must be in writing, must contain a description of the property in which the objector is interested, and set forth the nature of his title thereto or interest therein, and must state the objector's grounds of opposition, and must be signed and verified by the objector himself, or his attorney in fact, and objections which do not comply with these requirements shall not be considered by the said legislative body.

§ 8. At the close of the hearing provided for in the preceding section, the legislative body shall pass a resolution setting aside, modifying, or confirming the resolution provided for in section 5 hereof, and where the same is confirmed or modified, the lien of the assessment provided for therein shall immediately become attached to the respective parcels of land in accordance with said confirmed or modified resolution.

§ 9. Any action to contest an assessment levied by the legislative body of any municipality under the terms of this act must be commenced within thirty days after the entry upon the minutes of such legislative body of the resolution provided for in the preceding section hereof; and any appeal from a final judgment in such an action must be perfected within thirty days after the entry of such judgment.

§ 10. After the expiration of thirty days from the passage of the resolution provided for in section 8 hereof, the clerk of the municipality shall transmit to the tax collector of the municipality the map and list provided for in subdivisions 5 and 6, respectively, of section 4 hereof, and any modification made by the legislative body therein; provided, however, if any actions have been brought within thirty days after the passage of the resolution referred to in section 8, such transmission shall be postponed until such actions have been finally determined.

§ 11. Upon the receipt of the map and list referred to in the last preceding section, the tax collector of the municipality shall record the same in a substantial book to be kept for that purpose in his office. Said book shall also be ruled with appropriate columns, in which the tax collector shall extend the amounts of all installments of principal and interest and deferred payments, and each of said columns shall be provided with a space in which he shall make record of the fact and date of all payments received by him; and there shall also be a column in which shall be entered a reference by volume and page to the respective agreements under which said deferred payments are made.

§ 12. The tax collector of the municipality shall thereupon fix a day, not less than thirty nor more than forty days from the date of the receipt by him of the map and list transmitted to him under the provisions of section 10 hereof, which day shall be the last day for cash payments; and also shall fix a day for the sale of the various parcels of land within said district, which said day shall be not less than forty nor more than sixty days from the receipt by him of the map and list

transmitted to him under the provisions of section 10 hereof; notice thereof shall be given in conformity with the general laws of the state of California providing for notice of sale of real estate upon execution, and shall be posted and published in the same manner as such notices; provided, however, that the descriptions of the various parcels need not be set out at length, but only by the respective numbers of the same, as the same appear upon the assessment and diagram, which shall be properly referred to in said notice; which shall be in one writing, containing all of said descriptions.

§ 13. At the time and place fixed for the sale of said property by the terms of the notice referred to in the last section, the tax collector shall sell the respective parcels of land within said district, the assessments against which have not been paid or bonded against as hereinafter provided, or so much of each parcel as shall be necessary to realize the amount assessed against such parcel and its proportion of the expenses of sale, in the order of their numbers upon the map provided for in subdivision 5 of section 4 hereof, at which sale the municipality may be a purchaser; provided, however, if at or before the time fixed in the notice of sale the owner of any parcel shall file with the tax collector a written agreement, waiving all objections, of whatsoever kind or nature, against the assessment and all proceedings with reference to the same, and undertaking to pay the assessment on his parcel in yearly installments not to exceed ten in number, the first of which shall be paid at the time said agreement is filed, and the others annually thereafter, one each year, at the time when the first installment of municipal taxes within said municipality is payable, with interest on all deferred payments at the rate of — per cent per annum, being the same rate fixed by the resolution provided for in section 5 above for deferred payments, payable at the same time as the installments of principal, then, and in that event, the tax collector shall mark upon the record of the assessment, opposite the respective descriptions or numbers of such parcels, memoranda to the effect that time has been given; said waivers and undertakings shall be taken upon printed forms provided by the tax collector, bound in a substantial book and kept among the records of his office; said agreements shall contain a provision to the effect that in case of default in payment of any installment of principal provided for therein, or interest accrued on deferred payments, at the time called for by said agreements, then, in that event, the entire remaining unpaid installments shall become immediately due and payable, and the tax collector shall then forthwith, upon twelve days' written notice mailed to the last known address of the party, sell the property covered by the delinquent payment to realize the entire unpaid balance of said installments, with accrued interests and costs of sale; provided, the same have not been paid before the expiration of said twelve days. At such sale the municipality may be a bidder; said agreement shall provide that the entire unpaid balance may be paid at any time before maturity, together with interest on all deferred payments, until the date of maturity of the installment of principal next falling due.

§ 14. The tax collector shall issue for each sale an original and duplicate certificate of sale, referring to the proceedings, describing the parcels sold, and containing the name of the purchaser; the originals he shall deliver to the purchaser, and the duplicates he shall keep on file in his office in the form of stubs in a certificate-book.

§ 15. If the property sold as provided in the above proceedings be not redeemed within one year after the sale, the tax collector shall then issue to the party named in the original certificate, or his assignee, a deed of the property described in said certificate, which said deeds shall refer, in general terms, to the proceedings under which the same is issued, and shall contain a description of the property, following the description in the certificate; the grantee of such deed is, immediately upon receipt thereof, entitled to possession of the property described therein.

§ 16. At any time before the expiration of the year above provided for, in which redemption may be made, any property sold under the provisions of the preceding sections may be redeemed by the payment to the tax collector of the amount for which the property was sold, with an additional penalty of twenty-five per cent of the amount for which the same was sold; all redemption money shall be paid by the tax collector to the persons holding the respective original certificates of sale, upon their delivering up the same, and receipting for the amount received from the tax collector therefor.

§ 17. The said funds collected by the tax collector under the proceedings herein provided for, either upon voluntary payment or as the result of sales, shall be paid by said tax collector, as fast as collected, to the treasurer of said municipality, who shall enter the same in a special fund designated by reference to the number of the proceeding, and shall be paid out only for purposes provided for in this act.

§ 18. After all sales above provided for have been made, the tax collector shall report to the legislative body of the municipality, the amount of cash collections and the amount of installment agreements taken; at any time thereafter the legislative body may order bonds issued against the said special local improvement fund, in such denominations and on such terms, not to exceed ten years, and at such rate of interest, not to exceed seven per cent per annum, as they shall have designated in said proceedings, the aggregate of such bonds not to exceed the amount of the installment agreements taken, as above set forth; the form of such bonds shall be substantially as follows:

"LOCAL IMPROVEMENT BOND.

"District No. ———.

"\$——.

No. ———.

"Under and by virtue of an act of the legislature of the state of California" (title of this act) "the" (insert the legal title of the municipality) "out of the fund hereinafter referred to, will pay to the bearer the sum of \$—— United States gold coin of the same weight and fine-

ness as that now issued from the mints of the United States of America with interest thereon, in like gold coin, at the rate of — per cent per annum, all as hereinafter specified, and at the office of the treasurer of said municipality.

"This bond is payable exclusively from street improvement fund number —" (here insert designation of special fund, as same is identified on the books of the treasurer of the municipality, as provided in section 19 of this act), "and neither the municipality nor any officer thereof shall be holden for payment otherwise of its principal or interest; and installments of principal and interest accruing hereon shall be payable out of any moneys in said fund at the date of their maturity, in order of presentation, and shall be secured by all agreements and liens provided for by this act and arising out of the improvement to which said fund relates. The term of this bond is — years from its date, and, at the expiration of said time, the whole sum then unpaid shall be due and payable; but on the second day of January of each year after its date, an even annual proportion of its whole amount is due and payable, upon the presentation of the coupon therefor, until the whole is paid, with all accrued interest, at the rate of — per cent per annum. The interest is payable semi-annually, to wit: On the second days of January and July in each year hereafter, upon the presentation of the coupons therefor, the first of which is for the interest from date to the next second day of —, and thereafter the interest coupons are for semi-annual interest, except the last, which is for interest from the semi-annual payment next preceding and to the date of the final maturity of this bond. Should default be made in the annual payment upon the principal, or in any payment of interest, the holder of this bond is entitled to declare the whole unpaid amount to be due and payable, and to have all liens and agreements, which are security for said fund and are then enforceable, immediately enforced in payment thereof. The principal hereof may be paid, at the option of said municipality, at any time before maturity. Notice of such redemption must be published by the treasurer of said municipality once in some newspaper of general circulation, published in said municipality, or at the county seat of the county in which the same is located, and, at the expiration of one month from said publication, interest on all principal sums covered by such notice shall cease.

"At said — of — the — day of — in the year one thousand — hundred and —,

Insert title of (presiding officer of the legislative body.)

"Treasurer of the" (name of municipality).

Said bonds shall be signed by the presiding officer of the legislative body of the municipality and countersigned by the treasurer of said municipality, and the seal of the municipality shall be affixed thereto. Said coupons shall be signed by the treasurer of the municipality, and his signature thereto may be by lithograph.

Said bonds shall then be sold at not less than par to the highest bidder, for cash in United States gold coin; the proceeds shall be paid into the said special local improvement fund in the treasurer's hands.

§ 19. At any time after the funds for the work, or any part of the work, are actually in the hands of the treasurer, the legislative body may let the contract, or contracts, for such work, or the respective parts thereof; all contracts shall be let to the lowest responsible bidder, after notice published in some newspaper of general circulation published within the municipality, for two insertions, a week apart; or if there be no such newspaper, then by such posting as the legislative body may provide.

Every bid shall be accompanied by the certified check amounting to ten per cent of the bid, payable to the order of the presiding officer of the legislative body of the municipality, and the same shall be forfeited to the municipality in case the bidder depositing the same do not, within ten days after written notice that the contract has been awarded to him, enter into a contract with the municipality for the work, the faithful performance of which shall be secured by an undertaking in such penal sum as the legislative body shall require, and with sureties satisfactory to said body; when such contract and bond have been entered into, said check shall be returned to the successful bidder; the unsuccessful bidders shall receive their checks upon notice of rejection of their bids; and the legislative body may require, and, if so, it must be stated in the original resolution and petition and in the notice for bids, that the contractor to whom the work is awarded shall furnish the municipality with a bond in such sum and with such responsible surety corporation (legally qualified to carry on business in the state of California), as guarantor, as shall be approved by said legislative body, conditioned that the said contractor shall maintain free from all defects, except such as may result from ordinary wear and tear, the work contracted for and performed for such period as may be designated by said legislative body.

The contract must provide that the work be done, and the work must be done, strictly in accordance with the plans and specifications provided for in section 4 of this act, as modified by the resolution provided for in section 5 of this act; the contract must contain provisions making it comply with the terms of all statutes of the state of California in force at the time of the making of the contract, with reference to employment, hours and wages of labor.

The work must be done under the supervision of the superintendent of streets of the municipality, or such deputy or deputies as the legislative body shall appoint for the purpose.

No work shall be paid for until it has been accepted by the legislative body. Whenever the contractor desires the work or part thereof to be accepted he must make written application to that effect to the legislative body of the municipality. Upon the filing of such application for acceptance, the clerk of the municipality shall give at least five days' notice by publication within the municipality or by posting upon the premises affected, as the legislative body shall determine, that at a certain time to be named in said notice the legislative body of the municipality will hear and consider any objections to the acceptance of the work or part of the work for the acceptance of which said con-

tractor has made such application, and only after such hearing shall any work be accepted. If upon such hearing objections to the acceptance are made and held by the legislative body to be good, the legislative body must require the contractor to take such steps as will remove such objections, and in the event of his failure to do so within such time as the legislative body shall prescribe, the legislative body may relet such portion of the work and charge the contractor the cost thereof together with all expenses incident to said reletting, and retain the same out of any moneys due or to become due to him under the contract, and also hold him and his sureties responsible therefor upon his bond.

The work must be commenced and completed within such time as the legislative body shall prescribe. If the contractor abandon the work, or fail to proceed with the same as rapidly as required by his contract, the legislative body may relet the work and pay the cost of the same out of any funds due or to grow due the contractor, and also any expenses incidental to the reletting, and also hold him and his sureties responsible for the same upon his bond, and also for any damages resulting from such abandonment.

§ 20. In case the first assessment for any local improvement prove insufficient, a second may be made in the same manner as nearly as may be, except that no protest shall be entertained upon subject matter already decided in the first hearing, and so on until sufficient money shall have been realized to pay for such local improvement.

§ 21. If at any time an assessment for any local improvement shall realize a larger sum than is necessary for such improvement, the excess shall be refunded upon warrant on the treasurer, authorized by the legislative body, pro rata, to the parties by whom it was paid; and, in the case of installment assessments, shall be credited on the unpaid installments, beginning with the one due at the latest date.

§ 22. All special assessments levied under this act shall, from the date of confirmation as provided in section 8 hereof, be a lien upon the real estate upon which they are imposed, paramount to all other liens, except prior assessments and general taxes, and such lien shall continue until such special assessments are paid; and all parties shall have constructive notice of such lien from the date of entry of the resolution referred to in section 8 above.

§ 23. Whenever the majority of frontage between any two consecutive crossings upon any of the public ways mentioned in section 1 of this act, has been improved, the legislative body may compel the remainder of said frontage between said crossings to be similarly improved without other proceedings than those provided for in this section as follows, to wit: The legislative body shall pass a resolution ordering said work to be done, briefly describing the work and the property in front of which the work is to be done, and fixing a time when objections to the doing of said work will be heard by said legislative body, which said time shall be not less than two weeks nor more than thirty days

from the date of the passage of the resolution; at least ten days before the time named in said resolution for said hearing the clerk of the municipality shall mail a copy of said resolution to the person or persons to whom the property in front of which the said work is to be done is assessed upon the last preceding assessment-roll of such municipality, at their addresses if known, otherwise addressed to the care of the United States postoffice in the municipality, shall personally serve upon the person or persons in possession of the premises, if the same be occupied, and shall post a copy of the same in a conspicuous place upon the said premises, and the certificate of said clerk to the effect that said mailing, posting and service has been done shall be filed with the legislative body and entered upon their minutes, and said entry shall constitute conclusive evidence of the facts stated in said certificate; at the time named in said resolution said legislative body shall meet and consider any objections which may be made to the doing of said work; if there are no objections or if the legislative body overrule the same, the legislative body shall then pass a resolution ordering said work to be done; if within ten days after the passage of the last named resolution satisfactory evidence be not produced to the legislative body that the said work is to be immediately done by private contract the legislative body may advertise for bids for such work by such publication or posting as they shall deem necessary and let the work to the lowest responsible bidder, and pay for the same out of the general fund or any other fund available for the purpose; the entire cost of such work together with the expenses incidental to the proceedings therefor shall be charged against the property in front of which the same has been done; the clerk of the municipality shall immediately upon the completion and acceptance of the work file an itemized statement of said charge with the recorder of the county in which the municipality is located, and thereupon the said charge shall become a lien upon the property affected, which said lien shall relate back to the date of the passage of the original resolution first above mentioned and shall be continued upon such property until the same is paid in full with interest at seven per cent from the date of the record of such statement; and the municipality shall have power to enforce said lien by foreclosure suit and sell said property for the satisfaction thereof.

§ 24. This act shall be known as "The Local Improvement Act of 1901" and shall take effect and be in force upon its passage and approval.

§ 25. This act shall in no wise affect an act entitled "An act to provide for work upon streets, lanes, alleys, courts, places and sidewalks, and for the construction of sewers within municipalities," approved March eighteenth, eighteen hundred and eighty-five, or amendments thereto, or an act entitled "An act to provide a system of street improvement bonds to represent certain assessments for the cost of street work and improvement within municipalities, and also for the payment of said bonds," approved February twenty-seventh, eighteen hundred and ninety-three; or any of said acts; but is intended to and does provide

an alternate system of proceedings for public improvements, and it shall be within the discretionary power of the legislative body of any municipality to proceed in making such improvements, either under the provisions of this act, or under the provisions of the other said acts, but when any proceedings are commenced under this act the provisions of this act, and such amendments thereto as may hereafter be adopted, and no other, shall thereafter apply to all such proceedings; but any provision contained in said or any other acts in conflict with provisions hereof shall be void as to and of no effect upon proceedings commenced under the provisions of this act.

ACT 3930.

An act to provide for work upon streets, lanes, alleys, courts, places, and sidewalks, and for the construction of sewers within municipalities.

[Approved March 18, 1885. Stats. 1885, p. 147.]

Amended 1887, p. 148; 1889, p. 157; 1891, pp. 116, 196, 461; 1893, pp. 33, 89, 172; 1899, p. 23; 1903, p. 88; 1905, pp. 15, 63; 1907, pp. 126, 1000; 1909, pp. 81, 899, 1017.

Repealed so far as it relates to sidewalks by Act 3934, post.

Citations. Cal. 69/467, 468, 471, 472, 475, 478, 479, 486; 78/75, 78; 76/458; 82/190; 86/108, 466, 467, 468; 87/216, 217, 219, 580; 88/570, 571; 90/38, 39, 40, 613; 93/404; 96/185, 186, 187, 188, 189, 398; 97/308, 810, 812, 814, 817; 98/11, 480; 99/295, 517, 521; 102/236, 406, 417, 428, 424, 651; 103/54, 55, 60, 66, 78, 175, 529; 104/458; 105/164; 107/234, 429, 430, 431, 496; 108/85, 86, 169; 112/591; 114/143, 148, 150, 151, 152, 153; 115/228; 116/608, 609; 117/319, 322; 119/591; 121/315, 435, 632; 122/541, 544; 123/547; 125/40; 126/171, 173; 126/218; 127/498; 128/148, 878; 129/274; 130/470; 138/104, 105, 106; 134/428; 135/246; 136/148, 149, 249; 137/152; 138/125, 126, 128, 29, 30, 54, 55, 123; 139/56; 142/691, 693, 696, 700; 143/428; 144/377, 379, 880, 381, 382; 145/180, 261, 583, 584; 146/356, 377, 452, 453, 637, 728; 153/292, 293; 154/6, 304, 405. App. 2/575, 576; 4/386, 387, 391, 392; 6/615, 616.

AMDT. 1889.

Citations. Cal. 97/314; 99/388; 102/236, 237, 407, 417, 650; 103/64, 66, 529; 105/249; 107/234; 111/29; 114/154; 117/319. App. 1/309.

AMDT. 1891.

Citations. Cal. 104/341; 106/499; 114/154; 117/319; 120/624; 121/435; 122/541; 123/205; 128/115; 129/274, 383; 132/149, 151; 134/250; 135/668; 136/873; 146/637, 639; 148/532. App. 2/44, 45, 537, 643; 4/57, 230, 232, 233, 234.

AMDT. 1893.

Citations. Cal. 102/417, 423; 106/158; 126/444; 128/129; 133/123, 124, 129, 130; 146/356, 368, 370, 374.

See *Thomason v. Ruggles*, 69 Cal. 465; and *Oakland Pav. Co. v. Hilton*, *Id.* 479.

Part I.

§ 1. All streets, lanes, alleys, places, or courts, in the municipalities of this state now open or dedicated, or which may hereafter be opened or dedicated to public use, shall be deemed and held to be open public

provided, has been entered into, either by said lowest bidder or by the owners of three-fourths part of the frontage, whereupon said certified check shall be returned to said bidder. But if said bidder fails, neglects or refuses to enter into the contract to perform said work or improvement, as hereinafter provided, then the certified check accompanying his bid and the amount therein mentioned, shall be declared to be forfeited to said city, and shall be collected by it and paid into its fund for repairs of streets; and any bond forfeited may be prosecuted, and the amount due thereon collected and paid into said fund. Notice of such awards of contracts shall be posted for five days, in the same manner as hereinbefore provided for the posting of proposals for said work. It shall be published for two days in a daily newspaper published and circulated in said city and designated by said city council, or in cities where there is no daily newspaper, by one insertion in a semi-weekly or weekly newspaper so published, circulated and designated; provided, however, that in case there is no newspaper printed or published in any such city, then such notice of award shall only be kept posted as hereinbefore provided. The owners of three-fourths of the frontage of lots and lands upon the street whereon said work is to be done, or their agents, and who shall make oath that they are such owners or agents, shall not be required to present sealed proposals or bids, but may, within ten days after the first posting and publication of said notice of said award, elect to take said work and enter into a written contract to do the whole work at the price at which the same has been awarded. Should the said owners fail to elect to take said work, and to enter into a written contract therefor within ten days, or to commence the work within fifteen days after the first posting and publication of said award, and to prosecute the same with diligence to completion, it shall be the duty of the superintendent of streets to enter into a contract with the original bidder to whom the contract was awarded, and at the prices specified in his bid. But if such original bidder neglects, fails or refuses, for fifteen days after the first posting and publication of the notice of award, to enter into the contract, then the city council, without further proceedings, shall again advertise for proposals or bids, as in the first instance, and award the contract for said work to the then lowest regular bidder. The bids of all persons and the election of all owners, as aforesaid, who have failed to enter into the contract as herein provided, shall be rejected in any bidding or election subsequent to the first for the same work. If the owner or contractor, who may have taken any contract, do not complete the same within the time limited in the contract, or within such further time as the city council may give them, the superintendent of streets shall report such delinquency to the city council which may relet the unfinished portion of said work, after pursuing the formalities prescribed hereinbefore for the letting of the whole in the first instance. All contractors, contracting owners included, shall, at the time of executing any contract for street work, execute a bond to the satisfaction and approval of the superintendent of streets of said city, with two or more sureties and payable to such city, in such sums as the mayor shall deem adequate, conditioned for the

nated. In case there is no such paper published in said city, said notice shall be posted for six days on or near the chamber door of said council, and in two other conspicuous places in said city, as hereinafter provided. The owners of a majority of the frontage of the property fronting on said proposed work or improvement, where the same is for one block or more, may make a written objection to the same within ten days after the expiration of the time of the publication and posting of said notice, which objection shall be delivered to the clerk of the city council, who shall indorse thereon the date of its reception by him, and such objections so delivered and indorsed shall be a bar for six months to any further proceedings in relation to the doing of said work or making said improvements, unless the owners of the one-half or more of the frontage, as aforesaid, shall meanwhile petition for the same to be done. At any time before the issuance of the assessment-roll, all owners of lots or lands liable to assessment therein, who, after the first publication of said resolution of intention, may feel aggrieved, or who may have objections to any of the subsequent proceedings of said council in relation to the performance of the work mentioned in said notice of intention, shall file with the clerk a petition of remonstrance, wherein they shall state in what respect they feel aggrieved, or the proceedings to which they object; such petition or remonstrance shall be passed upon by the said city council, and its decision therein shall be final and conclusive. But when the work or improvement proposed to be done is the construction of sewers, manholes, culverts, or cesspools, cross-walks, or sidewalks, curbs and gutters, and the objection thereto is signed by the owners of a majority of the frontage liable to be assessed for the expense of said work, as aforesaid, the said city council shall, at its next meeting, fix a time for hearing said objections, not less than one week thereafter. The city clerk shall thereupon notify the persons making such objections, by depositing a notice thereof in the postoffice of said city, postage prepaid, addressed to each objector, or his agent, when he appears for such objector. At the time specified said city council shall hear the objections urged, and pass upon the same, and its decisions shall be final and conclusive, and the said bar for six months to any further proceedings shall not be applicable thereto. And when not more than two blocks, including street crossings, remain ungraded to the official grade, or otherwise unimproved, in whole or in part, and a block or more on each side upon said street has been so graded or otherwise improved, or when not more than two blocks at the end of a street remain so ungraded or otherwise unimproved, said city council may order any of the work mentioned in this act to be done upon said intervening ungraded or unimproved part of said street, or at the end of a street, and said work upon said intervening part, or at the end of a street, shall not be stayed or prevented by any written or other objection unless such council shall deem proper. And if one-half or more in width or in length, or as to grading, one-half or more of the grading work of any street lying and being between two successive main street crossings, or if a crossing has been already partially graded or improved as aforesaid, said council may order the remainder improved, graded or otherwise, notwithstanding

The assessment and apportionment of the expenses of all such work or improvement shall be made by the superintendent of streets in the mode herein provided.

§ 6½. Every contractor, person, company, or corporation, including contracting owners, to whom is awarded any contract for street work under this act, shall, before executing the said contract, file with the superintendent of streets a good and sufficient bond, approved by the mayor, in a sum not less than one-half of the total amount payable by the terms of said contract; such bond shall be executed by the principal and at least two sureties, who shall qualify for double the sum specified in said bond, and shall be made to inure to the benefit of any and all persons, companies, or corporations who perform labor on, or furnish materials to be used in the said work of improvement, and shall provide that if the contractor, person, company, or corporation to whom said contract was awarded fails to pay for any materials so furnished for the said work of improvement, or for any work or labor done thereon of any kind, that the sureties will pay the same, to an amount not exceeding the sum specified in said bond. Any materialman, person, company, or corporation, furnishing materials to be used in the performance of said work specified in said contract, or who performed work or labor upon the said improvement, whose claim has not been paid by the said contractor, company, or corporation, to whom the said contract was awarded, may, within thirty days from the time said improvement is completed, file with the superintendent of streets a verified statement of his or its claim, together with a statement that the same, or some part thereof, has not been paid. At any time within ninety days after the filing of such claim, the person, company, or corporation, filing the same or their assigns, may commence an action on said bond for the recovery of the amount due on said claim, together with the costs incurred in said action, and a reasonable attorney fee, to be fixed by the court, for the prosecution thereof. [New section approved February 21, 1899. Stats. 1899, p. 23.]

§ 7. Subdivision One—The expenses incurred for any work authorized by this act (which expense shall not include the cost of any work done in such portion of any street as is required by law to be kept in order or repair by any person or company having railroad tracks thereon, nor include work which shall have been declared in the resolution of intention to be assessed on a district benefited) shall be assessed upon the lots and lands fronting thereon, except as hereinafter specifically provided; each lot or portion of a lot being separately assessed, in proportion to the frontage, at a rate per front foot sufficient to cover the total expense of the work.

Subdivision Two—The expense of all improvements, except such as are done by contractors under the provisions of section 13 of this act, until the streets, avenues, street crossings, lanes, alleys, places, or courts are finally accepted, as provided in section 20 of this act, shall be assessed upon the lots and lands, as provided in this section, according

objections had not been made. [Amendment approved March 6, 1905. Stats. 1905, p. 63. In effect in sixty days.]

§ 4. The owners of a majority in frontage of lots and lands fronting on any street, avenue, lane, alley, place, or court, or of lots or lands liable to be assessed for the expense of the work petitioned to be done, or their duly authorized agents, may petition the city council to order any of the work mentioned in this act to be done, and the city council may order the work mentioned in said petition to be done, after notice of its intention so to do has been posted and published as provided in section 3 of this act. [Amendment approved March 31, 1891. Stats. 1891, p. 199.]

§ 5. Before the awarding of any contract by the city council for doing any work authorized by this act, the city council shall cause notice, with specifications, to be posted conspicuously for five days on or near the council chamber door of said council, inviting sealed proposals or bids for doing the work ordered, and shall also cause notice of said work inviting said proposal, and referring to the specifications posted or on file, to be published for two days in a daily, semi-weekly, or weekly newspaper published and circulated in said city, designated by the council for that purpose, and in case there is no newspaper published in said city, then it shall only be posted as hereinbefore provided. All proposals or bids offered shall be accompanied by a check payable to the order of the mayor of the city, certified by a responsible bank, for an amount which shall not be less than ten per cent of the aggregate of the proposal, or by a bond for the said amount and so payable, signed by the bidder and by two sureties, who shall justify, before any officer competent to administer an oath, in double the said amount, and over and above all statutory exemptions. Said proposals or bids shall be delivered to the clerk of the said city council, and said council shall, in open session, examine and publicly declare the same; provided, however, that no proposal or bid shall be considered unless accompanied by said check or bond satisfactory to the council. The city council may reject any and all proposals or bids should it deem this for the public good, and also the bid of any party who has been delinquent and unfaithful in any former contract with the municipality, and shall reject all proposals or bids other than the lowest regular proposal or bid of any responsible bidder, and may award the contract for said work or improvement to the lowest responsible bidder at the prices named in his bid, which award shall be approved by the mayor or a three-fourths vote of the city council. If not approved by him, or a three-fourths vote of the city council, without further proceedings, the city council may re-advertise for proposals or bids for the performance of the work as in the first instance, and thereafter proceed in the manner in this section provided, and shall thereupon return to the proper parties the respective checks and bonds corresponding to the bid so rejected. But the checks accompanying such accepted proposals or bids shall be held by the city clerk of said city until the contract for doing said work, as hereinafter

upon the lots and lands fronting nearest upon that side, and for intervening intersections only upon the two quarter blocks adjoining and cornering upon that side.

Subdivision Nine—Section 1 of chapter 325 of the laws of this state, entitled "An act amendatory of and supplementary to 'An act to provide revenue for the support of the government of this state,' approved April twenty-ninth, eighteen hundred and fifty-seven," approved April nineteenth, eighteen hundred and fifty-nine, shall not be applicable to the provisions of this section; but the property herein mentioned shall be subject to the provisions of this act, and be assessed for work done under the provisions of this section.

Subdivision Ten—It shall be lawful for the owner or owners of lots or lands fronting upon any street, the width and grade of which have been established by the city council, to perform, at his or their own expense (after obtaining permission from the council so to do, but before said council has passed its resolution of intention to order grading inclusive of this), any grading upon said street, to its full width, or to the center line thereof, and to its grade as then established, and thereupon to procure, at his or their own expense, a certificate from the city engineer, setting forth the number of cubic yards of cutting and filling made by him or them in said grading, and the proportions performed by each owner, and that the same is done to the established width and grade of said street, or to the center line thereof, and thereafter to file said certificate with the superintendent of streets, which certificate the superintendent shall record in a book kept for that purpose in his office, properly indexed. Whenever thereafter the city council orders the grading of said street, or any portion thereof, on which any grading certified as aforesaid has been done, the bids and the contract must express the price by the cubic yard for cutting and filling in grading; and the said owner or owners, and his or their successors in interest, shall be entitled to credit, on the assessment upon his or their lots and lands fronting on said streets for the grading thereof, to the amount of the cubic yards of cutting and filling set forth in his or their said certificate, at the prices named in the contract for said cutting and filling; or, if the grade meanwhile has been duly altered, only for so much of said certified work as would be required for grading to the altered grade; provided, however, that such owner or owners shall not be entitled to such credit as may be in excess of the assessments for grading upon the lots and lands owned by him or them, and proportionately assessed for the whole of said grading; and the superintendent of streets shall include in the assessment for the whole of said grading upon the same grade the number of cubic yards of cutting and filling set forth in any and all certificates so recorded in his office, or for the whole of said grading to the duly altered grade so much of said certified work as would be required for grading thereto, and shall enter corresponding credits, deducting the same as payments upon the amounts assessed against the lots and lands owned, respectively, by said certified owners and their successors in interest; provided, however, that he shall not so include any grading quantities or credit any sums in excess of the proportionate assessments

faithful performance of the contract; and the sureties shall justify before any person competent to administer an oath, in double the amount mentioned in said bond, over and above all statutory exemptions. Before being entitled to a contract, the bidder to whom the award was made, or the owners who have elected to take the contract, must advance to the superintendent of streets, for payment by him, the cost of publication of the notices, resolutions, orders, or other incidental expenses and matters required under the proceedings prescribed in this act, and such other notices as may be deemed requisite by the city council. And in case the work is abandoned by the city before the letting of the contract, the incidental expenses incurred previous to such abandonment shall be paid out of the city treasury. [Amendment approved March 31, 1891. Stats. 1891, p. 199.]

§ 5½. At any time within ten days from the date of the first publication of the notice of award of contract, any owner of or other person having any interest in any lot or land liable to assessment, who claims that any of the previous acts or proceedings relating to said improvement are irregular, defective, erroneous or faulty, may file with the clerk of the city council a written notice specifying in what respect said acts and proceedings are irregular, defective, erroneous or faulty. Said notice shall state that it is made in pursuance of this section. All objections to any act or proceeding, prior to the date of the aforesaid notice of award, in relation to said improvement, not made in writing and in the manner and at the time aforesaid, shall be waived, excepting as to matters directly affecting the jurisdiction of the council to order the said work or improvement. [New section approved February 20, 1909. Stats. 1909, p. 31. In effect immediately.]

§ 6. The superintendent of streets is hereby authorized, in his official capacity, to make all written contracts, and receive all bonds authorized by this act, and to do any other act, either express or implied, that pertains to the street department under this act; and he shall fix the time for the commencement, which shall not be more than fifteen days from the date of the contract, and for the completion of the work under all contracts entered into by him, which work shall be prosecuted with diligence from day to day thereafter to completion, and he may extend the time so fixed from time to time, under the direction of the city council. The work provided for in section 2 of this act must, in all cases, be done under the direction and to the satisfaction of the superintendent of streets, and the materials used shall comply with the specifications and be to the satisfaction of said superintendent of streets, and all contracts made therefor must contain a provision to that effect, and also express notice that, in no case, except where it is otherwise provided in this act, will the city, or any officer thereof, be liable for any portion of the expense, nor for any delinquency of persons or property assessed. The city council may, by ordinance, prescribe general rules directing the superintendent of streets and the contractor as to the materials to be used, and the mode of executing the work, under all contracts thereafter made.

subdivision. [Amendment approved March 31, 1891. Stats. 1891, p. 201.]

§ 8. After the contractor of any street work has fulfilled his contract to the satisfaction of the street superintendent of said city, or city council on appeal, the street superintendent shall make an assessment to cover the sum due for the work performed and specified in said contract (including any incidental expenses), in conformity with the provisions of the preceding section according to the character of the work done; or, if any direction and decision be given by said council on appeal, then in conformity with such direction and decision, which assessment shall briefly refer to the contract, the work contracted for and performed, and shall show the amount to be paid therefor, together with any incidental expenses, the rate per front foot assessed, if the assessment be made per front foot, the amount of each assessment, the name of the owner of each lot, or portion of a lot (if known to the street superintendent); if unknown the word "Unknown" shall be written opposite the number of the lot, and the amount assessed thereon, the number of each lot or portion or portions of a lot assessed, and shall have attached thereto a diagram exhibiting each street or street crossing, lane, alley, place, or court, on which any work has been done, and showing the relative location of each district, lot, or portion of lot to the work done, numbered to correspond with the numbers in the assessments, and showing the number of feet fronting, or number of lots assessed, for said work contracted for and performed. [Amendment approved March 14, 1889. Stats. 1889, p. 166.]

§ 9. To said assessment shall be attached a warrant, which shall be signed by the superintendent of streets, and countersigned by the mayor of said city. The said warrant shall be substantially in the following form:

Form of the Warrant.

By virtue hereof, I (name of the superintendent of streets), of the city of —, county of — (or city and county of —), and state of California, by virtue of the authority vested in me as said superintendent of streets, do authorize and empower (name of contractor), (his or their) agents or assigns, to demand and receive the several assessments upon the assessment and diagram hereto attached, and this shall be (his or their) warrant for the same.

(Date.)

— (name of superintendent of streets.)

Countersigned by (name of mayor.)

Said warrant, assessment, and diagram, together with the certificate of the city engineers, shall be recorded in the office of said superintendent of streets. When so recorded, the several amounts assessed shall be a lien upon the lands, lots, or portions of lots assessed, respectively, for the period of two years from the date of said recording, unless sooner discharged; and from and after the date of said recording of any warrant, assessment, diagram and certificate, all persons mentioned in section 11

to the nature and character of the work; and after such acceptance the expense of all the work thereafter done thereon shall be paid by said city out of the street department fund.

Subdivision Three—The expense of the work done on main street crossings shall be assessed at a uniform rate per front foot of the quarter blocks and irregular blocks adjoining and cornering upon the crossings, and separately upon the whole of each lot or portion of a lot having any frontage in the said blocks fronting on said main streets, half way to the next main street crossing, and all the way on said blocks to a boundary line of the city where no such crossing intervenes, but only according to its frontage in said quarter blocks and irregular blocks.

Subdivision Four—Where a main street terminates in another main street, the expenses of the work done on one-half of the width of the street opposite the termination shall be assessed upon the lots in each of the two quarter blocks adjoining and cornering on the same, according to the frontage of such lots on said main streets, and the expense of the other half of the width of said street upon the lot or lots fronting on the latter half of the street at such termination.

Subdivision Five—Where any alley or subdivision street crosses a main street, the expense of all work done on said crossing shall be assessed on all lots or portions of lots half way on said alley or subdivision street to the next crossing or intersection, or to the end of such alley or subdivision street, if it does not meet another.

Subdivision Six—The expense of work done on alley or subdivision street crossings shall be assessed upon the lots fronting upon such alley or subdivision streets on each side thereof, in all directions, half way to the next street, place or court, on either side, respectively, or to the end of such alley or subdivision street, if it does not meet another.

Subdivision Seven—Where a subdivision street, avenue, lane, alley, place, or court terminates in another street, avenue, lane, alley, place, or court, the expense of the work done on one-half of the width of the subdivision street, avenue, lane, alley, place, or court opposite the termination, shall be assessed upon the lot or lots fronting on such subdivision street, or avenue, lane, alley, place, or court so terminating, according to its frontage thereon, half way on each side, respectively, to the next street, avenue, lane, alley, court, or place, or to the end of such street, avenue, lane, alley, place, or court, if it does not meet another, and the other one-half of the width upon the lots fronting such termination.

Subdivision Eight—Where any work mentioned in this act (manholes, cesspools, culverts, cross-walks, piling, and capping excepted) is done on either or both sides of the center line of any street for one block or less, and further work opposite to the work of the same class already done is ordered to be done to complete the unimproved portion of said street, the assessment to cover the total expenses of said work so ordered shall be made upon the lots or portions of the lots only fronting the portions of the work so ordered. And when sewerage or resewering is ordered to be done under the sidewalk on only one side of a street for any length thereof, the assessment for its expenses shall be made only

ized at any time to receive the amount due upon any assessment-list and warrant issued by him, and give a good and sufficient discharge therefor; provided, that no such payment so made after suit has been commenced, without the consent of the plaintiff in the action, shall operate as a complete discharge of the lien until the costs in the action shall be refunded to the plaintiff; and he may release any assessment upon the books of his office, on the payment to him of the amount of the assessment against any lot with interest, or on the production to him of the receipt of the party or his assigns to whom the assessment and warrant were issued; and if any contractor shall fail to return his warrant within the time and in the form provided in this section, he shall thenceforth have no lien upon the property assessed; provided, however, that in case any warrant is lost, upon proof of such loss a duplicate can be issued, upon which a return may be made, with the same effect as if the original had been so returned. After the return of the assessment and warrant as aforesaid, all amounts remaining due thereon shall draw interest at the rate of ten per cent per annum until paid.

§ 11. The owners, whether named in the assessment or not, the contractor, or his assigns, and all other persons directly interested in any work provided for in this act, or in the assessment, feeling aggrieved by any act or determination of the superintendent of streets in relation thereto, or who claim that the work has not been performed according to the contract in a good and substantial manner, or having or making any objection to the correctness or legality of the assessment or other act, determination, or proceedings of the superintendent of streets, shall, within thirty days after the date of the warrant, appeal to the city council, as provided in this section, by briefly stating their objections in writing, and filing the same with the clerk of said city council. Notice of the time and place of the hearing, briefly referring to the work contracted to be done, or other subject of appeal, and to the acts, determinations, or proceedings objected to or complained of, shall be published for five days. Upon such appeal, the said city council may remedy and correct any error or informality in the proceedings, and revise and correct any of the acts or determinations of the superintendent of streets relative to said work; may confirm, amend, set aside, alter, modify, or correct the assessment in such manner as to them shall seem just, and require the work to be completed according to the directions of the city council; and may instruct and direct the superintendent of streets to correct the warrant, assessment, or diagram in any particular, or to make and issue a new warrant, assessment, and diagram, to conform to the decisions of said city council in relation thereto, at their option. All the decisions and determinations of said city council, upon notice and hearing as aforesaid, shall be final and conclusive upon all persons entitled to appeal under the provisions of this section, as to all errors, informalities, and irregularities which said city council might have remedied and avoided; and no assessment shall be held invalid, except upon appeal to the city council, as provided in this section, for any

for the whole of the grading which are made upon any lots and lands fronting upon said street and belonging to any such certified owners or their successors in interest. Whenever any owner or owners of any lots and lands fronting on any street shall have heretofore done, or shall hereafter do, any work (except grading) on such street, in front of any block, at his or their own expense, and the city council shall subsequently order any work to be done of the same class in front of the same block, said work so done at the expense of such owner or owners shall be excepted from the order ordering work to be done, as provided in subdivision eleven of this section of this act; provided, that the work so done at the expense of such owner or owners, shall be upon the official grade, and in condition satisfactory to the street superintendent at the time said order is passed.

Subdivision Eleven—The city council may include in one resolution of intention and order any of the different kinds of work mentioned in this act, and it may except therefrom any of said work already done upon the street to the official grade. The lots and portions of lots fronting upon said excepted work already done shall not be included in the frontage assessment for the class of work from which the exception is made; provided, that this shall not be construed so as to affect the special provisions as to grading contained in subdivision 10 of this section.

Subdivision Twelve—Whenever the resolution of intention declares that the costs and expenses of the work and improvement are to be assessed upon a district, the city council shall direct the city engineer to make a diagram of the property affected or benefited by the proposed work or improvement, as described in the resolution of intention, and to be assessed to pay the expenses thereof. Such diagram shall show each separate lot, piece or parcel of land, the area in square feet of each of such lots, pieces, or parcels of land, and the relative location of the same to the work proposed to be done, all within the limits of the assessment district; and when said diagram shall have been approved by the city council, the clerk shall, at the time of such approval, certify the fact and date thereof. Immediately thereafter the said diagram shall be delivered to the superintendent of streets of said city, who shall after the contractor of any street work has fulfilled his contract to the satisfaction of said superintendent of streets or city council, on appeal, proceed to estimate upon the lands, lots or portions of lots within said assessment district, as shown by said diagram, the benefits arising from such work, and to be received by each such lot, portion of such lot, piece, or subdivision of land, and shall thereupon assess upon and against said lands in said assessment district the total amount of the costs and expenses of such proposed work, and in so doing shall assess said total sum upon the several pieces, parcels, lots, or portions of lots, and subdivisions of land in said district benefited thereby, to wit: Upon each respectively, in proportion to the estimated benefits to be received by each of said several lots, portions of lots, or subdivisions of land. In other respects the assessment shall be as provided in the next section, and the provisions of subdivisions 3, 4, 5, 6, 7, and 8 of this section shall not be applicable to the work or improvement provided for in this

when not in conflict herewith, by the codes of this state. This act shall be liberally construed to effect the ends of justice. [Amendment approved March 14, 1889. Stats. 1889, p. 168.]

§ 12½. The city council, instead of waiting until the completion of the improvement, may, in its discretion, and not otherwise, upon the completion of two blocks or more of any improvement, order the street superintendent to make an assessment for the proportionate amount of the contract completed, and thereupon proceedings and rights of collection of such proportionate amount shall be had as in sections 8, 9, 10, 11, and 12 of the act of which this is amendatory is provided. [New section approved March 14, 1889. Stats. 1889, p. 169.]

§ 13. When any portion of any street, avenue, lane, alley, court, or place in said city improved, or any sidewalk constructed thereon shall be out of repair, or needing reconstruction, and in condition to endanger persons or property passing thereon, or in condition to interfere with the public convenience in the use thereof, it shall be the duty of said superintendent of streets to require, by notice in writing, to be delivered to them or their agents personally, or left on the premises, the owners or occupants of lots or portions of lots fronting on said portion of said street, avenue, alley, lane, court, or place, or of said portion of said sidewalks so out of repair or needing reconstruction as aforesaid, to repair or reconstruct, or to do both, forthwith, said portion of said street, avenue, lane, alley, court, or place, to the center line of said street in front of the property of which he is the owner, or tenant, or occupant; and said superintendent of streets shall particularly specify in said notice what work is required to be done, and how the same is to be done, and what material shall be used in said repairs, or reconstructions, or both. If said repairs, or reconstructions, or both, be not commenced within three days after notice given as aforesaid, and diligently and without interruption prosecuted to completion, the said superintendent of streets may, under authority from said city council, make such repairs, reconstruction, or both, or enter into a contract with any suitable person, at the expense of the owner, tenant, or occupant, after the specification for the doing of said work shall have been conspicuously posted by him in his office for two days, inviting bids for the doing of said work, which bids shall be delivered to him at his office on or before the second day of said posting, and opened by him on the next day following the expiration of said two days of posting, and the contract by him be awarded to the lowest bidder, if such lowest bid, in the judgment of said street superintendent, shall be reasonable. All of said bids shall be preserved in his office and open at all times after the letting of the contract to the inspection of all persons, and such owner, tenant, or occupant shall be liable to pay said contract price. Such work shall be commenced within twenty-four hours after the contract shall have been signed, and completed without delay to the satisfaction of said street superintendent. Upon the completion of said repairs, or reconstruction, or both, by said contractors as aforesaid, to the satisfaction of

of this act shall be deemed to have notice of the contents of the record thereof. After said warrant, assessment, diagram, and certificate are recorded, the same shall be delivered to the contractor, or his agent, or assigns, on demand, but not until after the payment to the said superintendent of streets of the incidental expenses not previously paid by the contractor, or his assigns; and by virtue of said warrant said contractor, or his agent or assigns, shall be authorized to demand and receive the amount of the several assessments made to cover the sum due for the work specified in such contracts and assessments. Whenever it shall appear by any final judgment of any court of this state that any suit brought to foreclose the lien of any sum of money assessed to cover the expense of said street work done under the provisions of this act has been defeated by reason of any defect, error, informality, omission, irregularity, or illegality in any assessment hereafter to be made and issued, or in the recording thereof, or in the return thereof made to or recorded by said superintendent of streets, any person interested therein may, at any time within three months after the entry of said final judgment, apply to said superintendent of streets who issued the same, or to any superintendent of streets in office at the time of said application, for another assessment to be issued in conformity to law; and said superintendent shall, within fifteen days after the date of said application, make and deliver to said applicant a new assessment, diagram, and warrant in accordance with law; and the acting mayor shall countersign the same as now provided by law, which assessment shall be a lien for the period of two years from the date of said assessment, and be enforced as provided in section 7 of this act. [Amendment approved March 31, 1891. Stats. 1891, p. 205.]

§ 10. The contractor, or his assigns, or some person in his or their behalf, shall call upon the persons assessed, or their agents, if they can conveniently be found, and demand payment of the amount assessed to each. If any payment be made the contractor, his assigns, or some person in his or their behalf, shall receipt the same upon the assessment in presence of the person making such payment, and shall also give a separate receipt if demanded. Whenever the person so assessed, or their agents, cannot conveniently be found, or whenever the name of the owner of the lot is stated as "Unknown" on the assessment, then the said contractor, or his assigns, or some person in his or their behalf, shall publicly demand payment on the premises assessed. The warrant shall be returned to the superintendent of streets within thirty days after its date, with a return indorsed thereon, signed by the contractor, or his assigns, or some person in his or their behalf, verified upon oath, stating the nature and character of the demand, and whether any of the assessments remain unpaid, in whole or in part, and the amount thereof. Thereupon the superintendent of streets shall record the return so made, in the margin of the record of the warrant and assessment, and also the original contract referred to therein, if it has not already been recorded at full length in a book to be kept for that purpose in his office, and shall sign the record. The said superintendent of streets is author-

any sums so paid beyond the rents due from him, he shall have a lien upon and may retain possession of the said land and lots until the amount so paid and advanced be satisfied, with legal interest, from accruing rents, or by payment by the owner.

§ 18. The records kept by the superintendent of streets of said city, in conformity with the provisions of this act, and signed by him, shall have the same force and effect as other public records, and copies therefrom, duly certified, may be used in evidence with the same effect as the originals. The said records shall, during all office hours, be open to the inspection of any citizen wishing to examine them, free of charge.

§ 19. Notices in writing which are required to be given by the superintendent of streets, under the provisions of this act, may be served by any person, with the permission of the superintendent of streets, and the fact of such service shall be verified by the oath of the person making it, taken before the superintendent of streets, who for that purpose, and for all other purposes, and in all cases where a verification is required under the provisions of this act, is hereby authorized to administer oaths, or other person authorized to administer oaths, or such notices may be delivered to the superintendent of streets himself, who must also verify the service thereof, and who shall keep a record of the fact of giving such notices, when delivered by himself personally, and also of the notices and proof of service when delivered by any other person. [Amendment approved March 14, 1889. Stats. 1889, p. 170.]

§ 20. Whenever any street, or portion of a street, has been or shall hereafter be fully constructed to the satisfaction of the superintendent of streets and of the city council, and is in good condition throughout, and a sewer, gas-pipes, and water-pipes are laid therein, under such regulations as the city council shall adopt, the same shall be accepted by the city council, by ordinance, and thereafter shall be kept in repair and improved by the said municipality; the expense thereof, together with the assessment for street work done in front of city property, to be paid out of a fund to be provided by said council for that purpose; provided, that the city council shall not accept of any portion of the street less than the entire width of the roadway (including the curbing), and one block in length, or one entire crossing; and, provided further, that the city council may partially or conditionally accept any street, or portion of a street, without a sewer, or gas-pipes, or water-pipes therein, if the ordinance of acceptance expressly states that the council deems such sewer, or gas-pipes, or water-pipes, to be then unnecessary, but the lots of land previously, or at any time, assessable for the cost of constructing a sewer, shall remain and be assessable for such cost, and for the cost of repairs and restoration of the street damaged in the said construction, whenever said council shall deem a sewer to be necessary, and shall order it to be constructed, the same as if no partial or conditional acceptance had ever been made. The superintendent of streets shall keep in his office a register of all streets accepted by the city

error, informality, or other defect in any of the proceedings prior to the assessment, or in the assessment itself, where notice of the intention of the city council to order the work to be done, for which the assessment is made, has been actually published in any designated newspaper of said city for the length of time prescribed by law, before the passage of the resolution ordering the work to be done.

§ 12. At any time after the period of thirty-five days from the day of the date of the warrants, as herein provided, or if an appeal is taken to the city council, as provided in section 11 of this act, at any time after five days from the decision of said council, or after the return of the warrant or assessment, after the same may have been corrected, altered or modified, as provided in said section 11 (but not less than thirty-five days from the date of the warrant), the contractor or his assignee may sue, in his own name, the owner of the land, lots, or portions of lots, assessed on the day of the date of the recording of the warrant, assessment, and diagram, or any day thereafter during the continuance of the lien of said assessment, and recover the amount of any assessment remaining unpaid, with interest thereon at the rate of ten per cent per annum until paid. And in all cases of recovery under the provisions of this act, the plaintiff shall recover the sum of fifteen dollars, in addition to the taxable cost as attorney's fees, but not any percentage upon said recovery. And when suit has been brought, after a personal demand has been made and a refusal to pay such assessment so demanded, the plaintiff shall also be entitled to have and recover said sum of fifteen dollars as attorney's fees, in addition to all taxable costs, notwithstanding that the suit may be settled or a tender may be made before a recovery in said action, and he may have judgment therefor. Suit may be brought in the superior court within whose jurisdiction the city is in which said work has been done, and in case any of the assessments are made against lots, portions of lots, or lands the owners thereof cannot, with due diligence, be found, the service in each of such actions may be had in such manner as is prescribed in the codes and laws of this state. The said warrant, assessment, certificate, and diagram, with the affidavit of demand and nonpayment, shall be held prima facie evidence of the regularity and correctness of the assessment and of the prior proceedings and acts of the superintendent of streets and city council upon which said warrant, assessment, and diagram are based, and like evidence of the right of the plaintiff to recover in the action. The court in which said suit shall be commenced shall have power to adjudge and decree a lien against the premises assessed, and to order such premises to be sold on execution, as in other cases of the sale of real estate by the process of said courts; and on appeal, the appellate courts shall be vested with the same power to adjudge and decree a lien and to order such premises to be sold on execution or decree as is conferred on the court from which an appeal is taken. Such premises, if sold, may be redeemed as in other cases. In all suits now pending, or hereafter brought to recover street assessments, the proceedings therein shall be governed and regulated by the provisions of this act, and also,

stayed or prevented by any written or any other remonstrance or objection, unless such council deems proper. [Amendment approved March 11, 1893. Stats. 1893, p. 173.]

§ 25. The city council may, in its discretion, repair and water streets that shall have been graded, curbed, and planked, paved, or macadamized, and may build, repair, and clean sewers, and shall provide a street contingent fund at the same time and in the same manner as other funds are provided, out of which to pay the costs and expenses of making said repairs, and watering said streets, and building, repairing, and cleaning said sewers; but whenever any unaccepted street or part of a street requires regrading, recurbing, repiling, repaving, replanking, regravelling, or remacadamizing, or requires new culverts, or new crosswalks, or new sidewalks, or new sewers, the work shall be advertised and let out by contract, and the costs and expenses thereof shall be assessed upon the property affected or benefited thereby, the same as in the first instance.

§ 26. The city council may, in its discretion, order, by resolution, that the whole or any part of the cost and expenses of any of the work mentioned in this act be paid out of the treasury of the municipality from such fund as the council may designate. Whenever a part of such cost and expenses is so ordered to be paid, the superintendent of streets, in making up the assessment heretofore provided for such cost and expenses, shall first deduct from the whole cost and expenses such part thereof as has been so ordered to be paid out of the municipal treasury, and shall assess the remainder of said cost and expenses proportionately upon the lots, parts of lots, and lands fronting on the streets where said work was done, or liable to be assessed for such work, and in the manner heretofore provided. [Amendment approved March 31, 1891. Stats. 1891, p. 206.]

Part II.

§ 27. Whenever the city council deem it necessary to construct a sewer, then the said council may, in its discretion, determine to construct said sewer, and assess the cost and expenses thereof upon the property to be affected or benefited thereby, in such manner and within such assessment district as it shall prescribe, and the lien therefor upon said property shall be the same as is provided in section 9 of this act, or said council may determine to construct said sewer and pay therefor out of the street contingent fund.

§ 28. If, at any time, the city council shall deem it necessary to incur any indebtedness for the construction of sewers, in excess of the money in the street contingent fund applicable to the construction of such sewers, they shall give notice of a special election by the qualified electors of the city, to be held to determine whether such indebtedness shall be incurred. Such notice shall specify the amount of indebtedness proposed to be incurred, the route and general character of the sewer, or sewers to be constructed, and the amount of money necessary to be

said superintendent of streets, said superintendent of streets shall make and deliver to said contractor a certificate to the effect that said repairs, or reconstruction, or both, have been properly made by said contractor to the grade, and that the charges for the same are reasonable and just, and that he, said superintendent, has accepted the same. [Amendment approved March 14, 1889. Stats. 1889, p. 169.]

§ 14. If the expenses of the work and material for such improvements after the completion thereof, and the delivery to said contractor of said certificate, be not paid to the contractor so employed, or his agent or assignee, on demand, the said contractor, or his assignee, shall have the right to sue such owner, tenant, or occupant for the amount contracted to be paid; and said certificate of the superintendent of streets shall be prima facie evidence of the amount claimed for said work and materials, and of the right of the contractor to recover for the same in such action. Said certificate shall be recorded by the said superintendent of streets in a book kept by him in his office for that purpose, properly indexed, and the sum contracted to be paid shall be a lien, the same as provided in section 9 of this act, and may be enforced in the same manner.

§ 15. In addition, and as cumulative to the remedies above given, the city council shall have power, by resolution or ordinance, to prescribe the penalties that shall be incurred by any owner or person liable, or neglecting, or refusing to make repairs when required, as provided in section (13) thirteen of this act, which fines and penalties shall be recovered for the use of the city by prosecution in the name of the people of the state of California, in the court having jurisdiction thereof, and may be applied, if deemed expedient by the said council, in the payment of the expenses of any such repairs not otherwise provided for.

§ 16. The person owning the fee, or the person in whom, on the day the action is commenced, appears the legal title to the lots and lands, by deeds duly recorded in the county recorder's office of each county, or the person in possession of lands, lots, or portions of lots or buildings under claim, or exercising acts of ownership over the same for himself, or as the executor, administrator, or guardian of the owner, shall be regarded, treated, and deemed to be the "owner" (for the purpose of this law), according to the intent and meaning of that word as used in this act. And in case of property leased, the possession of the tenant or lessee holding and occupying under such persons shall be deemed to be the possession of such owner.

§ 17. Any tenant or lessee of the lands or lots liable may pay the amount assessed against the property of which he is the tenant or lessee under the provisions of this act, or he may pay the price agreed on to be paid under the provision of section 13 of this act, either before or after suit brought, together with costs, to the contractor, or his assigns, or he may redeem the property, if sold on execution or decree for the benefit of the owner, within the time prescribed by law, and deduct the amount so paid from the rents due and to become due from him, and for

the work has been done according to the contract; provided, that after the completion of the sewers, for the construction of which said bonds were issued, if there be any money of said fund left in the treasury, the same may be transferred to the general fund, for general purposes. [Amendment approved March 15, 1887. Stats. 1887, p. 148.]

§ 33. Whenever said council shall determine to construct any sewer, and pay therefor out of the street contingent fund, or by the issuance of bonds, as above provided, then said council shall cause to be prepared plans and specifications of said work in sections, and shall advertise for twenty days in at least one newspaper published in the city in which the sewer is to be constructed, and one in the city and county of San Francisco, for sealed proposals for constructing said sewer. The work may be let in sections, and must be awarded to the lowest responsible bidder, the council having the right to reject any and all bids. The work shall be done and the materials furnished under the supervision and to the satisfaction of the superintendent of streets and the city engineer.

Part III.

§ 34. First. The city engineer, or where there is no city engineer, the county, or city and county surveyor, shall be the proper officer to do the surveying and other engineering work necessary to be done under this act, and to survey and measure the work to be done under contracts for grading and macadamizing streets, and to estimate the costs and expenses thereof; and every certificate signed by him in his official character shall be prima facie evidence in all courts in this state of the truth of its contents. He shall also keep a record of all surveys made under the provisions of this act, as in other cases. In all those cities where there is no city engineer the city council thereof is hereby authorized and empowered to appoint a suitable person to discharge the duties herein laid down as those of city engineer, and all the provisions hereof applicable to the city engineer shall apply to such person so appointed. Said city council is hereby empowered to fix his compensation for such services.

Second. The words "work," "improve," "improved" and "improvement," as used in this act, shall include all work mentioned in this act, and also the construction, reconstruction and repairs of all or any portion of said work.

Third. The term "incidental expenses," as used in this act, shall include the compensation of the city engineer for work done by him; also the cost of printing and advertising, as provided in this act, and not otherwise; also the compensation of the person appointed by the superintendent of streets to take charge of and superintend any of the work mentioned in section 35 of this act; also the expenses of making the assessment for any work authorized by this act. All demands for incidental expenses mentioned in this subdivision shall be presented to the street superintendent by itemized bill, duly verified by oath of the demandant.

Fourth. The notices, resolutions, orders or other matter required to be published by the provisions of this act, and of the act of which this

council under this section, which register shall be indexed for easy reference thereto.

§21. The superintendent of streets shall keep a public office in some convenient place within the municipality, and such records as may be required by the provisions of this act. He shall superintend and direct the cleaning of all sewers, and the expense of the same shall be paid out of the street or sewer fund of said city.

§22. It shall be the duty of the superintendent of streets to see that the laws, ordinances, orders, and regulations relating to the public streets and highways be fully carried into execution, and that the penalties thereof are rigidly enforced. He shall keep himself informed of the condition of all the public streets and highways, and also of all public buildings, parks, lots, and grounds of said city, as may be prescribed by the city council. He shall, before entering upon the duties of his office, give bonds to the municipality, with such sureties and for such sums as may be required by the city council; and should he fail to see the laws, ordinances, orders, and regulations relative to the public streets or highways carried into execution, after notice from any citizen of a violation thereof, he and his sureties shall be liable upon his official bond to any person injured in his person or property in consequence of said official neglect.

§23. If, in consequence of any graded street or public highway improved under the provisions of this act, being out of repair and in condition to endanger persons or property passing thereon, any person, while carefully using said street or public highway, and exercising ordinary care to avoid the danger, suffer damage to his person or property, through any such defect therein, no recourse for damages thus suffered shall be had against such city; but if such defect in the street or public highway shall have existed for the period of twenty-four hours or more after notice thereof to the said superintendent of streets, then the person or persons on whom the law may have imposed the obligations to repair such defect in the street or public highway, and also the officer or officers through whose official negligence such defect remains unrepaired, shall be jointly and severally liable to the party injured for the damage sustained; provided, that said superintendent has the authority to make said repairs, under the direction of the city council, at the expense of the city.

§24. The city council of such city shall have full power and authority to construct sewers, gutters, and man-holes, and provide for the cleaning of the same, and culverts or cesspools, or cross-walks, or sidewalks, or any portion of any sidewalk, upon or in any street, avenue, lane, alley, court, or place in such city; and also for drainage purposes, over or through any right of way obtained or granted for such purposes, with necessary and proper outlet or outlets to the same, of such materials, in such a manner, and upon such terms as it may be deemed proper. None of the work or improvements described in this section shall be

Eleventh. The term "clerk" and "city clerk," as used in this act, is hereby declared to include any person or officer who shall be clerk of the said city council.

Twelfth. The term "quarter block," as used in this act as to irregular blocks, shall be deemed to include all lots or portions of lots having any frontage on either intersecting street half way from such intersection to the next main street, or, when no main street intervenes, all the way to a boundary line of the city.

Thirteenth. The term "one year," as used in this act, shall be deemed to include the time beginning with January first and ending with the thirty-first day of December of the same year.

Fourteenth. References in certain sections, by number, to certain other sections of "this act" refer to the number of the sections of the original act, as heretofore amended, unless it appears from the context that the reference is to the section of this amendatory act, when it shall be construed according to the context. [Amendment approved March 23, 1907. Stats. 1907, p. 1000. In effect immediately.]

§ 35. The superintendent of streets in all cities having a population of fifty thousand or over shall, when in his judgment it is necessary, appoint a suitable person to take charge of and superintend the construction and improvement of each and every sewer constructed or improved under the provisions of this act, and of piling and capping, sidewalks, or of the paving of whatever character heretofore mentioned, in whole or in part, of one block or more, whose duty it shall be to see that the contract made for the doing of said work is strictly fulfilled in every respect, and in case of any departure therefrom to report the same to the superintendent of streets. Such person shall be allowed for his time actually employed in the discharge of his duties such compensation as shall be just, but not to exceed four dollars per day. The sum to which the party so employed shall be entitled shall be deemed to be incidental expenses, within the meaning of those words as defined by this act. [Amendment approved March 6, 1903. Stats. 1903, p. 88.]

§ 36. The act entitled "An act to provide for the improvement of streets, lanes, alleys, courts, places, and sidewalks, and the construction of sewers within municipalities," approved March sixth, eighteen hundred and eighty-three, is hereby repealed; provided, that any work or proceedings commenced thereunder prior to the passage of this act shall in nowise be affected hereby, but shall in all respects be finished and completed under said act of March sixth, eighteen hundred and eighty-three, and said repeal shall in nowise affect said work or proceedings.

§ 37. That said act shall take effect and be in force immediately upon its passage, and all acts and parts of acts in conflict with this act are hereby repealed; and provided, however, that any work or proceeding of the city council commenced under the act of which this is amendatory shall in nowise be affected thereby, but shall in all respects be finished and completed thereunder. [Amendment approved March 11, 1893. Stats. 1893, p. 173.]

raised annually by taxation for an interest and sinking fund as herein-after provided. Such notice shall be published for at least three weeks in some newspaper published in such city, and no other question or matter shall be submitted to the electors at such election. If, upon a canvass of the votes cast at such election, it appear that not less than two-thirds of all the qualified electors voting at such election shall have voted in favor of incurring such indebtedness, it shall be the duty of the city council to pass an ordinance providing for the mode of creating such indebtedness, and of paying the same; and in such ordinance provision shall be made for the levy and collection of an annual tax upon all the real and personal property subject to taxation, within such city, sufficient to pay the interest on such indebtedness as it falls due, and also to constitute a sinking fund for the payment of the principal thereof, within a period of not more than twenty years from the time of contracting the same. It shall be the duty of the city council in each year thereafter, at the time when other taxes are levied, to levy a tax sufficient for such purpose, in addition to the taxes authorized to be levied for city purposes. Such tax, when collected, shall be kept in the treasury as a separate fund, to be inviolably appropriated to the payment of the principal and interest of such indebtedness.

§ 29. If bonds are issued under the provisions of the last section, said bonds shall be in sums of not less than one hundred dollars nor more than one thousand dollars, shall be signed by the mayor and treasurer of the city, and the seal of the city shall be affixed thereto. Coupons for the interest shall be attached to each bond, signed by the mayor and treasurer. Said bonds shall bear interest, to be fixed by the city council, at the rate of not to exceed five per cent per annum.

§ 30. Before the sale of said bonds, the council shall, at a regular meeting, by resolution, declare its intention to sell a specified amount of said bonds, and the day and hour of such sale, and shall cause such resolution to be entered in the minutes, and shall cause notice of such sale to be published for fifteen days in at least one newspaper published in the city in which the bonds are issued, and one published in the city and county of San Francisco, and in any other newspaper in the state, at their discretion. The notice shall state that sealed proposals will be received by the council for the purchase of the bonds on the day and hour named in the resolution. The council, at the time appointed, shall open the proposals and award the purchase of the bonds to the highest bidder, but may reject all bids.

§ 31. The council may sell said bonds, at not less than par value, without the notice provided for in the preceding section.

§ 32. The proceeds of the sale of the bonds shall be deposited in the city treasury, to the account of the sewer fund, but no payment therefrom shall be made, except to pay for the construction of the sewer or sewers, for the construction of which the bonds were issued, and upon the certificate of the superintendent of streets and the city engineer that

acting as a board of commissioners, shall assess the benefits, damages, and costs of the proposed change of grade upon each separate lot of land situated within such assessment district, as said lot appears of record upon the last city, or city and county assessment-roll. [En. 1891, p. 116. Rep. 1893, p. 33; amended 1893, p. 90.]

§ 41. The commissioners shall be sworn to make the assessments of benefits and damages to the best of their judgment and ability, without fear or favor. [En. 1891, p. 116. Rep. 1893, p. 33; amended 1893, p. 90.]

§ 42. The commissioners shall have power to subpoena witnesses to appear before them to be examined under oath, which any one of said commissioners is authorized to administer. [En. 1891, p. 116. Rep. 1893, p. 33; amended 1893, p. 90.]

§ 43. The commissioners having determined the damage which would be sustained by each petitioner, in excess of all benefits, shall proceed to assess the total amount thereof, together with the costs, charges, and expenses of the proceedings, upon the several lots of land benefited within the district of assessment, so that each of the lots shall be assessed in accordance with its benefits caused by such work or improvement; and during the progress of their work shall make a report to such city council as often as it may be required. [En. 1891, p. 116. Rep. 1893, p. 33; amended 1893, p. 90.]

§ 44. The commissioners shall make their report, in writing, and shall subscribe to the same and file with the city council. In their said report they shall describe separately each piece of property which will sustain damage, stating the amount of damages each will sustain over and above all benefits. They shall also give a brief description of each lot benefited within said assessment district, the name of the owner, if known, and the amount of benefits in excess of damages assessed against the same. In case the three commissioners do not agree, the award agreed upon by any two of them shall be sufficient. In designating the lots to be assessed, reference may be had to a diagram of the property in the district affected; such diagram to be attached to and made a part of the report of the commissioners. [En. 1891, p. 116. Rep. 1893, p. 33; amended 1893, p. 90.]

§ 45. If in any case the commissioners find that conflicting claims of title exist, or shall be in ignorance or doubt of the ownership of any lot or land, or any improvement thereon, or any interest therein, it shall be set down as belonging to unknown owners. Error in the designation of the owner or owners of any land or improvements, or particulars of their interest, shall not affect the validity of the assessment. On the filing of said report, the clerk of said city council shall give notice of such filing by the publication of at least ten days in one or more daily newspapers published and circulated in said city; or if there be no daily newspaper, by three successive issues in a weekly or semi-weekly newspaper so published and circulated; and said notice shall require all

is amendatory, shall be published in a daily newspaper, in cities where such there is, and where there is no daily newspaper, in a semi-weekly or weekly newspaper, to be designated by the council of such city, as often as the same is issued, and no other statute shall govern or be applicable to the publications herein provided for; provided, however, that only in case there is no daily, semi-weekly or weekly newspaper printed or circulated in any such city, then such notices, resolutions, orders or other matters as are herein required to be published in a newspaper, shall be posted and kept posted for the same length of time as required herein for the publication of the same in a daily, semi-weekly or weekly newspaper, in three of the most public places in such city. Proof of the publication or posting of any notice provided for herein shall be made by affidavit of the owner, publisher or clerk of the newspaper, or of the poster of the notice. No publication or notice, other than that provided for in this act, shall be necessary to give validity to any of the proceedings provided for therein.

Fifth. The word "municipality" and the word "city," as used in this act, shall be understood and so construed as to include, and is hereby declared to include, all corporations heretofore organized and now existing, and those hereafter organized, for municipal purposes.

Sixth. The words "paved" or "repaved," as used in this act, shall be held to mean and include pavement of stone, whether paving blocks or macadamizing, or of bituminous rock or asphalt, or of iron, wood or other material, whether patented or not, which the city council shall by ordinance adopt.

Seventh. The word "street," as used in this act, shall be deemed to, and is hereby declared to, include avenues, highways, lanes, alleys, crossings, or intersections, courts and places, and the term "main street" means such actually opened street or streets as bound a block; the word "blocks," whether regular or irregular, shall mean such blocks as are bounded by main streets, or partially by a boundary line of the city.

Eighth. The terms "street superintendent" and "superintendent of streets," as used in this act, shall be understood and so construed as to include, and are hereby declared to include, any person or officer whose duty it is, under the law, to have the care or charge of the streets, or the improvement thereof in any city. In all those cities where there is no street superintendent or superintendent of streets, the city council thereof is hereby authorized and empowered to appoint a suitable person to discharge the duties herein laid down as those of street superintendent or superintendent of streets; and all provisions hereof applicable to the street superintendent or superintendent of streets shall apply to such person so appointed.

Ninth. The term "city council" is hereby declared to include any body or board which, under the law, is the legislative department of the government of any city.

Tenth. In municipalities in which there is no mayor, then the duties imposed upon said officer by the provisions of this act shall be performed by the president of the board of trustees, or other chief executive officer of the municipality.

thereafter proceed in the manner in this section provided. All checks accompanying bids shall be held by the clerk until the bearer has entered into a contract, as herein provided; and in case he refuses so to do, then the amount of his certified check shall be declared forfeited to the city, and shall be collected and paid into its general fund, and all bonds so forfeited shall be prosecuted, and the amount thereon collected paid into such fund. Notice of the awards of the contracts shall be published and posted in the same manner as hereinbefore provided for the posting of proposals for said work. [Amendment approved March 9, 1893. Stats. 1893, p. 91.]

§ 47. After such contract has been awarded and entered into, the clerk of the city council shall certify to the city council that fact, together with the total amount of the cost of the same, whereupon the city council shall cause to be forwarded to the commissioners a copy of such certificate; whereupon such commissioners shall proceed to assess the cost of doing such work upon all the lots and land lying within the district to be assessed, distributing the same so that each lot will be assessed for its proportion of the same, according to the benefits it receives from the work, and in the same manner in which the damages caused by the change of grade were assessed upon the same. Such commissioners, in making such assessment, shall show the total amount for which each lot or tract is assessed, in excess of all benefits, for the total cost of changing and modifying the grade of the street, as well as the regrading, repaving, sewerage, sidewalking, and curbing of the same, and costs or damages connected therewith. The provisions of the act to which this is amendatory in regard to the mode or manner of the assessment of the cost of such work shall not apply to the work herein contemplated; neither shall the provisions of the same in regard to the issuing of bonds to represent the cost of the same, nor the provisions in regard to the right of protest against the work. [Amendment approved March 9, 1893. Stats. 1893, p. 92.]

§ 48. The clerk of said city council shall forward to the street superintendent of the city a certified copy of the report, assessment, and plat, as finally confirmed and adopted by the city council. Such certified copy shall thereupon be the assessment-roll, the cost of which shall be provided for by the commissioners, as a portion of the cost of the proceedings therein. Immediately upon receipt thereof by the street superintendent, the assessment therein contained shall become due and payable, and shall be a lien upon all the property contained or described therein. [Amendment approved March 9, 1893. Stats. 1893, p. 93.]

§ 49. The superintendent of streets shall thereupon give notice, by publication for ten days in one or more daily newspapers published and circulated in said city, or city and county, or two successive insertions in a weekly or semi-weekly newspaper so published and circulated, that he has received said assessment-roll, and that all sums levied and assessed in said assessment-roll are due and payable immediately, and that the payment of said sums is to be made to him within thirty days from the

§ 38. The city council is hereby empowered to change or modify the grade of any public street, lane, alley, place, or court, and to regrade or repave the same, so as to conform to such modified grade, in the manner as hereinafter provided. Before any change of grade is ordered the city council shall pass an ordinance or resolution of intention to make such change or modification of grade, and it shall have power at the same time and in the same ordinance or resolution to provide for the actual cost of performing the work of regrading, repaving, sewerage, sidewalk, or curbing of said street or portion of street, with the same or other material with which it was formerly graded, paved, sewerage, sidewalked, or curbed; and that the cost of the same shall also be assessed upon the same district which is declared to be benefited by such changed or modified grade. One or more streets or blocks of streets may be embraced in the same ordinance or resolution. Such ordinance or resolution shall be published in the newspaper in which the official notices of the city council are usually printed and published; and such newspaper is to be designated in such ordinance or resolution. Such publication shall be made in every regular issue of such paper for not less than ten days, and shall describe the proposed change or modification of grade or regrading, and shall designate and establish the district to be benefited by such change or modification of grade or regrading, and to be assessed for the cost of the same. Within five days after the first publication of the ordinance or resolution of intention, the superintendent of streets shall cause to be conspicuously posted within the district designated in the ordinance of resolution, notice of the passage of said resolution. Said notices shall be the same in all requirements of contents and posting as the "Notices of Street Work" provided for in section 3 of the original act to which this is amendatory. If no objection to said proposed change or changes, or modifications of grade, shall be filed with the clerk of the council within thirty days from the first publication of the ordinance or resolution of intention hereinbefore mentioned, the city council shall have power to declare such grades to be changed and established in conformity to said ordinance or resolution; provided, that no change of an established grade shall be ordered except on petition of the owners of a majority of the property affected by the proposed change of grade. [En. 1891, p. 116. Rep. 1893, p. 33; amended 1893, p. 89.]

§ 39. Within thirty days after the first publication of said notice, any person owning property fronting upon said portions of the street or streets where such change of grade is made, may file a petition with the clerk of the city council showing the fact of such ownership, the description and situation of the property claimed to be damaged, its market value, and the estimated amount of damages over and above all benefits which the property would sustain by the proposed change if completed. Such petition shall be verified by the oath of the petitioners or their agents. [En. 1891, p. 116. Rep. 1893, p. 33; amended 1893, p. 90.]

§ 40. Whenever such petition or petitions have been filed, the mayor, surveyor, and superintendent of streets of the city, or city and county,

place for the change of grade for which the assessment was made. Payments shall be made from said fund to the parties entitled thereto, upon warrants signed by the commissioners or a majority of them. [Amendment approved March 9, 1893. Stats. 1893, p. 93.]

§ 50. When sufficient money is in the hands of the city treasurer, in the fund voted for the proposed work or improvement, to pay the total cost for damages, as well as for the cost of doing the work, and all other expenses connected therewith, it shall be the duty of the commissioners to notify the owner, possessor, or occupant of the premises damaged, and to whom damages have been awarded, that a warrant has been drawn for the payment of the same, which can be received at the office of such commissioners. Such notification may be made by depositing a notice, postage paid, in the postoffice, addressed to his last known place of residence. If, after the expiration of three days after the service or deposit of the notice in the postoffice, he shall not have applied for such warrant, the same shall be drawn and deposited with the city treasurer, to be delivered to him upon demand. [Amendment approved March 9, 1893. Stats. 1893, p. 94.]

§ 51. If the owner of any premises damaged neglects or refuses, for ten days after the warrant has been placed in the hands of the city treasurer, subject to his demand, to accept the same, the city council may cause proceedings to be commenced, in the name of the city, to condemn said premises, as provided by law under the right of eminent domain. The ordinance or resolution of intention shall be conclusive evidence of the necessity of the same. Such proceedings shall have precedence, so far as the business of the court will permit, and any judgment for damages therein rendered shall be payable out of the special fund in the treasury for that purpose. At any time after the trial and judgment entered, or pending appeal, the court may order the city treasurer to set apart in the city treasury a sufficient sum from said fund to answer the judgment, and thereupon may authorize or order the municipality to proceed with the proposed work or improvements. In case of a deficiency in said fund to pay the whole assessed judgment and damages, the city council may, in its discretion, order the balance thereof to be paid out of the general fund of the treasury, or to be distributed by the commissioners over the property assessed by a supplementary assessment; but in the last named case, in order to avoid delay, the city council may advance such balance out of any available fund in the treasury, and reimburse the same from the collection of assessments. The treasurer shall pay such warrants in the order of their presentation; provided, that warrants for damages and for costs of performing the work shall have priority over warrants for charges and expenses, and the treasurer shall see that sufficient money remains in the fund to pay all warrants of the first class before paying any of the second. The provisions of section 1251 of the Code of Civil Procedure, requiring the payment of damages within thirty days after the entry of judgment, shall not apply to damages rendered in proceedings under this act. [Amendment approved March 9, 1893. Stats. 1893, p. 95.]

date of the first publication of said notice. Said notice shall also contain a statement that all assessments not paid before the expiration of said thirty days will be declared to be delinquent, and that thereafter the sum of five per cent upon the amount of such delinquent assessment, together with the cost of advertising each delinquent assessment will be added thereto. When payment of any assessment is made to said superintendent of streets, he shall write the word "Paid" and the date of payment opposite the respective assessment so paid, and the name of the persons by or for whom said assessment is paid, and shall give a receipt therefor. On the expiration of said thirty days, all assessments then unpaid shall be and become delinquent, and said superintendent of streets shall certify such fact at the foot of said assessment-roll, and shall add five per cent to the amount of each assessment so delinquent. The said superintendent of streets shall, within five days from the date of such delinquency, proceed to advertise the various sums delinquent, and the whole thereof, including the cost of advertising, which last shall not exceed the sum of fifty cents for each lot, piece, or parcel of land separately assessed, by the sale of the assessed property in the same manner as is or may be provided for the collection of state and county taxes; and after the date of said delinquency, and before the time of such sale herein provided for, no assessment shall be received, unless at the same time the five per cent added to as aforesaid, together with the costs of advertising then already incurred, shall be paid therewith. Said list of delinquent assessments, with a notice of the time and place of sale of the property affected thereby, shall be published daily for five days, in one or more daily newspapers published and circulated in such city, or by at least two insertions in a weekly newspaper so published and circulated before the day of sale for such delinquent assessment. Said time of sale must not be less than seven days from the date of the first publication of said delinquent assessment-list, and the place must be in or in front of the office of said superintendent of streets. All property sold shall be subject to redemption for one year, and in the same manner as in sales for delinquent state and county taxes; and the superintendent of streets shall, if there is no redemption, make and deliver to the purchaser at such sale a deed conveying the property sold, and may collect for each certificate fifty cents, and for each deed one dollar. All provisions of the law in reference to the sale and redemption of property for delinquent state and county taxes, in force at any given time, shall also then, as far as the same are not in conflict with the provisions of this act, be applicable to the sale and redemption of property for delinquent assessments hereunder, including the issuance of certificates and execution of deeds. The deed of the street superintendent, made after such sale, in case of failure to redeem, shall be prima facie evidence of the regularity of all proceedings hereunder, and of title in the grantee. The superintendent of streets shall from time to time pay over to the city treasurer all moneys collected by him on account of any such assessments. The city treasurer shall, upon receipt thereof, place the same in a separate fund, designating each fund by the name of the street, square, lane, alley, court, or

to say, undertakes to do the work. And all the rights, dues and remedies of the "contractor," under the provisions of this act, shall accrue to the city in its character of one undertaking to do the work, as provided in this section. [New section approved March 18, 1909. Stats. 1909, p. 399. In effect immediately.]

ACT 3931.

An act to provide for laying out, opening, extending, widening, straightening, diverting, curving, contracting, or closing up, in whole or in part, any street, square, lane, alley, court, or place within municipalities or cities and counties of forty thousand inhabitants or over, and to condemn and acquire any and all land and property necessary or convenient for that purpose.

[Approved March 23, 1893. Stats. 1893, p. 220.]

The code commissioners say of this act: "Probably unconstitutional: *Darcy v. Mayor of San Jose*, 104 Cal. 642; *Pasadena v. Stimson*, 91 Cal. 258."

Citations. Cal. 140/860.

§ 1. Be it enacted: Whenever the public interest or convenience may require, the city council of any municipality or cities and counties, containing over forty thousand inhabitants, shall have full power to order, and upon the petition of the owners of a majority of the frontage to be taken for said purpose shall order, the opening, extending, widening, straightening, diverging, curving, contracting, or closing up, in whole or in part, of any street, square, lane, alley, court, or place within the bounds of such city, and shall condemn and acquire any and all lands necessary or convenient for that purpose.

§ 2. Before ordering any work to be done or improvement made, which is authorized by section 1 of this act, the city council shall then pass a resolution declaring the intention to do said work, describing the work or improvement, and the land deemed necessary to be taken therefor, and specifying the exterior boundaries of the district of land to be affected or benefited by said work or improvement, and be assessed to pay the damages, cost, and expense thereof.

§ 3. The street superintendent shall then cause to be conspicuously posted along the line of said contemplated work or improvement, and not more than three hundred feet in distance apart, but not less than three in all, notices of the passage of said resolution. Said notices shall be headed, "Notice of Public Work," in letters not less than one inch in length, shall be in legible characters, state the fact of the passage of the resolution, its date, and, briefly, the work of improvement proposed, and refer to the resolution for further particulars. He shall also cause a notice similar in substance to be published for a period of ten days in one or more daily newspapers published and circulated in said city, and designated by said city council; or if there is no daily newspaper so published and circulated in said city, then by four successive insertions in a weekly or semi-weekly newspaper so published, circulated, and designated.

§ 52. All other provisions contained in the act to which this is amendatory, and which provisions are not in conflict herewith, shall apply to all matters herein contained. All proceedings in any work or improvement, such as is provided for in this act, already commenced and now in progress under another act now in force, or by virtue of an ordinance or resolution of intention heretofore passed, may, from any stage of such proceedings already commenced and now in progress, be continued under this act by resolution of the city council. The said work or improvement may then be conducted under the provisions of this act, with full force and effect in all respects from the stage of such proceedings at and from which such resolution or ordinance shall declare the intention to have such work done or improvement cease under such other acts or ordinances and continued under this act; and from such election so made all proceedings theretofore had are hereby ratified, confirmed, and made valid, and it shall be unnecessary to renew or conduct over again any proceedings prior to the passage of this act. [Amendment approved March 9, 1893. Stats. 1893, p. 95.]

§ 53. The provisions of this act shall be liberally construed to permit the objects thereof. [Amendment approved March 9, 1893. Stats. 1893, p. 96.]

§§ 54, 55. No sections of these numbers.

§ 56. When the work prescribed by the resolution of intention is exclusively sidewalk or curbing work with or without such grading as is incidentally necessary to the doing of such sidewalk or curbing work, and no proposals or bids for doing the work are delivered to the clerk, as invited by the notice inviting the same, as provided for in section 5 of this act, the city council may, in its discretion, by a vote of three-fourths of its members in the affirmative, direct that a proposal or bid in the name and on the part of the city be filed, whereupon the contract for doing the work shall be awarded to the city, and the city shall thus be and become the "contractor" within the meaning of this act. And when the time has expired within which, as provided in said section 5 of this act the owners may elect to take the contract, shall have expired, and such owners have not so elected, the city shall be deemed to have undertaken to do and complete the work, at the price named, in such bid or proposal, within ninety days after the time when as aforesaid it is to be deemed to have undertaken the same, and to begin such work within fifteen days after said time. The city need not enter into a contract with the superintendent of streets, as provided in section 6 of this act, nor give any check or bond either upon bidding or to secure the performance of the work or payment for labor or materials. The warrant provided for in section 9 of this act shall be delivered to the clerk of the city council, and such clerk is hereby authorized to make on the part of the city the demand provided for in section 10 of this act. Except as in this section expressly provided otherwise, all and singular the provisions of this act shall apply in the case where the city, under the provisions of this section, becomes the contractor, that is

the same. In all municipalities where there is a board of public works, such board shall constitute the board of commissioners in this section provided for, and shall perform the duties of such commissioners, and their salaries as members of the board of public works shall be in full compensation for such services. It shall be the official duty of the city attorney to render said commissioners all necessary legal services; provided, that the city surveyor shall, for any work or services which he may perform by the direction of the common council or other legislative department of the city government, receive, in addition to his salary allowed by law, all sums which he may lay out, pay out, or expend in the prosecution of said work, for materials or labor necessarily therein by him employed.

§ 7. Said commissioners shall have an office assigned to them by the city council, in the city hall, and shall have power to employ a secretary, at a salary not to exceed one hundred and fifty dollars per month, and such other clerical assistance as shall be provided them by the city council, the salaries and fees of whom shall be established and fixed by said city council.

§ 8. All such charges and expenses shall be deemed as expenses of said work of improvement, and be a charge only upon the funds devoted to the particular work or improvement as provided hereinafter. All payments, as well for the land and improvements taken or damaged, and for the charges and expenses, shall be paid by the city treasurer, upon warrants drawn upon said fund from time to time, signed by said commissioners, or a majority of them. All such warrants shall state whether they are issued for land or improvements taken or damaged, or for charges and expenses, and that the demand is only payable out of the money in said fund, and in no event shall the city be liable for the failure to collect any assessment made by virtue hereof, nor shall said warrant be payable out of any other fund, nor a claim against the city.

§ 9. Said commissioners shall proceed to view the lands described in the resolution of intention, and may examine witnesses on oath, to be administered by any of them. Having viewed the land to be taken, and the improvements affected, and considered the testimony presented, they shall proceed with all diligence to determine the value of the land, and the damage to improvement and property affected, and also the amount or the expenses incident to said work or improvement, and having determined the same, shall proceed to assess the same upon the lands described in said district herein provided. The lands fronting on said extension or widening shall only be assessed to the depth of one hundred and twenty feet, or the full depth of the lots, not exceeding one hundred and fifty feet; and said lands shall be assessed with reference to the amount of grading to be done, and their location on the grades of said street or improvement; and the expenses of grading said lots or lands, whether filling or cutting shall be necessary to place them on the grade of said street

§ 4. Any person through whose lands said proposed street extension runs, or who will be damaged or affected by said proposed work, may, within ten days after the first publication of said notice, file with the clerk of the city council his written objections thereto, stating in what manner and to what extent he will be damaged, which objection shall be delivered to the clerk of the city council, who shall indorse thereon the date of its reception by him, and at the next meeting of the city council, after the expiration of said ten days, lay said objections before said city council, which shall fix a time for hearing said objections, not less than one week thereafter. The city clerk shall thereupon notify the persons making such objections by depositing a notice thereof in the postoffice of said city, postage prepaid, addressed to such objector.

§ 5. At the time specified, or to which the hearing may be adjourned, the city council shall hear the objections filed, and if the owners of a majority of the frontage of all lands to be assessed for benefits, as said owners appear on the last preceding annual assessment-roll for state and county taxes, object, in writing, to said proposed opening, extending, and widening, straightening, diverging, curving, contracting, or closing up of said street, said city council shall sustain said objections, and all proceedings therefor shall be stopped for the period of twelve months. Proceedings may be again commenced by a new resolution of intention. If the owners of a majority of the frontage of all streets within the assessment district do not object, in writing, thereto, within the time specified in this act, the city council shall be deemed to have acquired jurisdiction to order any of the work to be done or improvements to be made which is authorized by section 1 of this act.

§ 6. Having acquired jurisdiction, as provided in the preceding section, the city council shall order said work to be done, and, unless the proposed work is for closing up, and it appears that no assessment is necessary, shall appoint three disinterested persons, who shall constitute a board of commissioners in that regard, who shall have full supervision of the proposed work or improvement until the completion thereof in compliance with this statute. For their services they shall each receive, as compensation, not to exceed five dollars for every day of actual service; provided, that said compensation shall not be paid for a longer term than six months for each district, unless extended by the council. Such extension shall not exceed two months at one time, nor shall the term of office of said commissioners, for any district, continue for longer than one year. Such compensation shall be added to and be chargeable as a part of the expenses of the work of improvement. Each of said commissioners shall file with the clerk of the city council an affidavit and a bond to the state of California, in the sum of five thousand dollars, to faithfully perform the duties of his office. The city council may at any time remove any or all of said commissioners for cause upon reasonable notice and hearing, and may fill any vacancies occurring among them for any cause. At the end of the terms of said commissioners, they shall hand over all unfinished business to the city council, who shall complete

hearing may be adjourned to, the city council shall hear such objections and pass upon the same; and at such time, or if there be no objections at the first meeting after the day set in such order to show cause, or such other time as may be fixed, shall proceed to pass upon such report, and may confirm, correct or modify, or may sustain the objections thereto and order the commissioners to make a new report, assessment, and plat, which in either case shall be filed, and notice given and hearing had, as in the case of the original report; but no report, or plat, or assessment shall be filed by said commissioners after the expiration of ten months after their appointment.

§ 15. The clerk of said city council shall forward to the street superintendent of the city a certified copy of the report, assessment, and plat as finally confirmed and adopted by the city council. Such certified copy shall thereupon be the assessment-roll, and thirty days after such filing shall become a lien on the property assessed therein, for its proportion of the costs of said improvement as hereinbefore provided.

§ 16. The superintendent of streets shall thereupon give notice by publication for ten days in two daily newspapers published and circulated in said city and county, or by two successive insertions in a weekly or semi-weekly newspaper so published and circulated, that he has received said assessment-roll, and that all sums levied and assessed in said assessment-roll are due and payable immediately, and that the payment of said sums is to be made to him within thirty days from the date of the first publication of said notice. Said notice shall also contain a statement that all assessments not paid before the expiration of said thirty days will be declared to be delinquent, and that thereafter the sum of five per cent upon the amount of each delinquent assessment, together with the cost of advertising each delinquent assessment, will be added thereto. When payment of any assessment is made to said superintendent of streets, he shall write the word "Paid" and the date of payment opposite the respective assessments so paid, and the names of persons by or for whom said assessment is paid, and shall, if so required, give a receipt therefor. On the expiration of said thirty days, all assessments then unpaid shall be and become delinquent, and said superintendent of streets shall certify such fact at the foot of said assessment-roll, and shall add five per cent to the amount of each assessment so delinquent. The said superintendent of streets shall, within five days from the date of said delinquency, proceed to advertise and collect the various sums delinquent and the whole thereof, including the cost of advertising, which last shall not exceed the sum of fifty cents for each lot, piece, or parcel of land separately assessed, by the sale of the assessed property in the same manner as is or may be provided for the collection of state and county taxes; and after the date of said delinquency, and before the time of said sale herein provided for, no assessment shall be received unless at the same time the five per cent added thereto, as aforesaid, together with the cost of advertising then already incurred, shall be paid therewith. Said list of delinquent assessments shall be published

or improvement, shall be estimated in determining the value of the land, and the damage to the improvement and property affected.

§ 10. Said commissioners, having made their assessment of benefits and damage, shall, with all diligence, make a written report thereof, to the city council, and shall accompany their report with a plat showing the land taken, or about to be taken, for the work or improvement, and the lands assessed, showing the relative location of each district, block, lot, or portion of lot, and its dimensions, so far as the commissioners can reasonably ascertain the same. Each block and lot, or portion of lot, taken or assessed, shall be designated and described in said plat by an appropriate number, and reference to it by such descriptive number shall be a sufficient description of it in any suit entered to condemn and in all respects. When the report and plat are approved by the city council, a copy of said plat, appropriately designated, shall be filed by the clerk thereof in the office of the recorder of the county.

§ 11. Said report shall specify each lot, subdivision, or piece of property taken or injured by the widening or other improvement, or assessed therefor, together with the name of the owner or claimant thereof, or of persons interested therein as lessees, encumbrancers, or otherwise, so far as the same are known to such commissioners, and the particulars of their interests, so far as the same can be ascertained, and the amount of value or damage, or the amount assessed, as the case may be.

§ 12. If in any case the commissioners find conflicting claims of title exist, or shall be in ignorance or doubt as to the ownership of any lot of land, or of any improvements thereon, or any interest therein, it shall be set down as belonging to unknown owners. Error in the designation of the owner or owners of any land or improvements, or of the particulars of their interest, shall not affect the validity of the assessment or the condemnation of the property to be taken.

§ 13. Said report and plat shall be filed in the clerk's office of the city council, and thereupon the clerk of said city council shall give notice of such filing by publication for at least ten days in one or more daily newspapers published and circulated in said city; or if there be no daily newspaper, by three successive insertions in a weekly or semi-weekly newspaper so published and circulated. Said notice shall also require all persons interested to show cause, if any, why such report should not be confirmed, before the city council, on or before a day fixed by the clerk thereof, and stated in said notice, which day shall be not less than thirty days from the first publication thereof.

§ 14. All objections shall be in writing, and filed with the clerk of the city council, who shall, at the next meeting after the day fixed in the notice to show cause, lay the said objections, if any, before the city council, which shall fix a time for hearing the same, of which the clerk shall notify the objectors in the same manner as objectors to the original resolution of intention. At the time set, or at such other time as the

to the necessity of taking his land, the commissioners, with the approval of the city council, may cause proceedings to be taken for the condemnation thereof, as provided by law under the right of eminent domain. The complaint may aver that it is necessary for the city to take or damage and condemn the said lands, or an easement therein, as the case may be, without setting forth the proceedings herein provided for, and the resolution and ordinance ordering said work to be done shall be conclusive evidence of such necessity. Such proceedings shall be brought in the name of the municipality, and have precedence, so far as the business of the court will permit; and any judgment for damages therein rendered shall be payable out of such portion of the special fund as may remain in the treasury, so far as the same can be applied. At any time after trial and judgment entered, or preceding an appeal, the court may order the city treasurer to set apart in the city treasury a sufficient sum from the fund appropriated to the particular improvement, to answer the judgment and all damages, and thereupon may authorize and order the municipality to enter upon the land and proceed with the proposed work and improvement. In case of a deficiency in said fund to pay the whole of said judgment and damages, the city council shall order the balance thereof to be paid out of the general fund of the treasury.

§ 19. The treasurer shall pay such warrants out of the appropriate fund, and not otherwise, in the order of their presentation; provided, that warrants for land or improvements taken or damaged shall have priority over warrants for charges and expenses, and the treasurer shall see that sufficient money is and remains in the fund to pay all warrants of the first class before paying any of the second.

§ 20. If any title attempted to be acquired by virtue of this act shall be found to be defective from any cause, the city council may again institute proceedings to acquire the land as in this act provided, or otherwise, or may authorize the commissioners to purchase the same, and include the cost thereof in a supplementary assessment as provided in the last section.

§ 21. 1. The words "work" and "improvement," as used in this act, shall include all work mentioned in section 1 of this act.

2. In case there is no daily or weekly or semi-weekly newspaper printed and circulated in the city, then such notices as are herein required to be published in a newspaper shall be posted and kept posted for the length of time required herein for the publication of the same in a weekly newspaper, in three of the most public places in such city. Proof of the publication of posting of any notice provided for herein shall be made by affidavit of the owner, publisher, or clerk of the newspaper, or of the poster of the notice.

3. The word "municipality" and the word "city" shall be understood and so construed as to include all corporations heretofore organized and now existing, or hereafter organized, for municipal purposes.

4. The terms "street superintendent" and "superintendent of streets," as used in this act, shall be understood and so construed as to include.

daily for five days in one or more daily newspapers published and circulated in such city, or by at least one insertion in a weekly newspaper so published and circulated, before the day of sale of such delinquent assessment. Said time of sale must not be less than seven days from the date of the first publication of said delinquent assessment-list, and the place must be in or in front of the office of said superintendent of streets. All property sold shall be subject to redemption in the same time and manner as in sales for delinquent state and county taxes; and the superintendent of streets may collect for each certificate fifty cents, and for each deed one dollar. All provisions of the law in reference to the sale and redemption of property for delinquent state and county taxes in force at any given time shall also then, so far as the same are not in conflict with the provisions of this act, be applicable to the sale and redemption of property for delinquent assessments hereunder, including the issuance of certificates and the execution of deeds. The deed of the street superintendent made after such sales, in case of failure to redeem, shall be prima facie evidence of the regularity of all proceedings hereunder and of title in the grantee. It shall be conclusive evidence of the necessity of taking or damaging the lands taken or damaged, and of the correctness of the compensation awarded therefor. The superintendent of streets shall, from time to time, pay over to the city treasurer all moneys collected by him on account of any such assessments. The city treasurer shall, upon receipt thereof, place the same in a separate fund, designating such fund by the name of the street, square, lane, alley, court, or place for the widening, opening, or other improvement of which the assessment was made. Payments shall be made from said fund to the parties entitled thereto, upon warrants signed by the commissioners, or a majority of them.

§ 17. When sufficient money is in the hands of the city treasurer, in the fund devoted to the proposed work or improvement, to pay for the land or improvements taken or damaged, and when, in the discretion of the commissioners, or a majority of them, the time shall have come to make payments, it shall be the duty of the commissioners to notify the owner, possessor, or occupant of any land or improvements thereon to whom damages shall have been awarded that a warrant has been drawn for the payment of the same, and that he can receive such warrant at the office of such commissioners, upon tendering a conveyance of any property to be taken; such a notification, except in the case of unknown owners, to be made by depositing a notice, postage paid, in the postoffice, addressed to his last known place of abode or residence. If, at the expiration of thirty days after the deposit of such notice, he should not have applied for such warrant and tendered a conveyance of the land to be taken, the warrant so drawn shall be deposited with the county treasurer, and shall be delivered to such owner, possessor, or occupant, upon tendering a conveyance as aforesaid, unless judgment of condemnation shall be had, when the same shall be canceled.

§ 18. If any owner of land to be taken neglects or refuses to accept the warrant drawn in his favor, as aforesaid, or objects to the report as

thousand inhabitants or over shall have power, by a three-fourths vote of its members, to extend the life of any existing commission until its work shall have been completed as in said act provided; but in all other cases in cities or cities and counties of forty thousand inhabitants or over, the assessments, plats, and reports filed by said commissioners are declared to be null and void, and all moneys collected under the provisions of said act shall be refunded to the persons from whom the same were collected, in the same manner as taxes which have been twice collected, and the said commissioners are hereby removed from office; provided further, however, that in case of the lands necessary to widen or open any street, there shall have been actually purchased and conveyed to the municipality, under the provisions of said act of March sixth; eighteen hundred and eighty-nine, more than one-half of the land necessary, for said improvements, as shown by the report and plat on file, then said streets, and the improvement thereof, shall not be affected by this act, but the same shall be completed as commenced.

§ 24. This act shall be liberally construed, to promote the objects thereof.

This act shall take effect and be in force from the time of its passage.

ACT 3932.

An act to provide a system of street improvement bonds to represent certain assessments for the cost of street work and improvement within municipalities, and also for the payment of such bonds.

[Approved February 27, 1893. Stats. 1893, p. 33.]

Amended 1899, p. 40.

Citations. Cal. 106/158; 126/444, 446, 448; 180/211, 213, 214; 138/123, 125; 144/379; 146/356, 368, 374; 154/7, 7. App. 3/664, 665.

"Amended 1899, p. 40. Unconstitutional, in so far as it undertakes to make the bonds, conclusive evidence. (Ramish v. Hartwell, 126 Cal. 443; Chase v. Trout, 146 Cal. 350, 356). See also German Savings etc. Society v. Ramish, 138 Cal. 120."—Code Commissioners' Note.

§ 1. Wherever in this act the phrase "street work act" is used, it means, and shall be taken to mean, the act entitled "An act to provide for work upon streets, lanes, alleys, courts, places, and sidewalks, and for construction of sewers within municipalities," approved March eighteenth, eighteen hundred and eighty-five, and all acts amendatory thereof or supplementary thereto; and wherever in this act the name of any municipal body or officer is used, or any word or phrase is used which is not herein expressly defined, it means and shall be taken to mean such municipal body or officer, or word or phrase, as the same is expressly defined in said street work act, and in all acts amendatory thereof or supplementary thereto.

§ 2. Whenever the city council of any municipality in this state shall find, upon estimates of the city engineer, that the cost of any proposed work or improvement authorized by said street work act will be greater

and are hereby declared to include, any person or officer whose duty it is, under the law, to have the care or charge of the streets, or the improvement thereof, in any city. In all those cities where there is no street superintendent or superintendent of streets, the city council thereof is hereby authorized and empowered to appoint a suitable person to discharge the duties herein laid down as those of street superintendent or superintendent of streets, and all the provisions hereof applicable to the street superintendent or superintendent of streets shall apply to such persons so appointed.

5. The term "city council" is hereby declared to include any body or board which, under the law, is the legislative department of the government of any city.

6. The term "clerk" and "city clerk," as used in this act, is hereby declared to include any person or officer who shall be clerk of said city council.

7. The term "treasurer" or "city treasurer," as used in this act, shall include any person or officer who shall have charge and make payment of the city funds.

§ 22. The mayor, tax collector, and city or city and county attorney, as the case may be, of all municipalities wherein there is existing at the passage of this act any commission appointed for the opening, extending, or widening of streets under the provision of said act of March sixth, eighteen hundred and eighty-nine, and which commission is not within the proviso of section 23 of this act, are hereby constituted a board of audit, whose duty it shall be, upon petition of said commission, to carefully examine all the accounts, bills, and expenditures, made or contracted for by said commission, including the salaries of the said commissioners; and said board of audit, or a majority of its members, is hereby authorized to audit and allow such amounts as it shall find to be just and reasonable, and report said amounts, with the items thereof and to whom payable, to the city council. Said report shall be final and conclusive as to said amounts. The city council is authorized to pass and allow and order paid to each of the persons entitled thereto, the amounts so found to be due, in the same manner as claims and demands against such municipality are passed, allowed, and ordered paid. The payment of said amounts shall be provided for in the tax levy thereafter made by said city council, and when said taxes are collected the said amounts shall be paid out of the general fund of said municipality in the same manner as other claims and demands are paid.

§ 23. The act approved March sixth, eighteen hundred and eighty-nine, entitled "An act for opening, widening, and extending streets," etc., after the passage of this act, shall not apply to any city or city and county having a population of forty thousand inhabitants or over; but as to any city or city and county having a population of forty thousand or over said act shall not apply; but said cities and cities and counties shall be subject only to the provisions of this act in all matters embraced within the purview of this act; provided, however, that the present city council or other governing body of any municipality of forty

lot or parcel of land upon said list the total amount of the assessments against the same, as thereon shown. And if said lot or parcel of land is described upon said assessment and diagram by its number or block, or both, and is also designated by its number or block, or both, upon the official map of said municipality, or upon any map on file in the office of the county recorder of the county in which said municipality is situated, then it shall be in said bond a sufficient description of said lot or parcel of land to designate it by said number or block, or both, as it appears on said official or recorded map.

Said bond shall be substantially in the following form:

Street Improvement Bond.

Series (designating it), in the city (or other form of the municipality) of (naming it).

\$ ———¹⁰⁰

No. ———.

Under and by virtue of an act of the legislature of the state of California (title of said act), I, out of the fund for the above designated street improvement bonds, series ———, will pay to ———, or order, the sum of ——— dollars (\$——) with interest at the rate of ——— per cent per annum, all as is hereinafter specified, and at the office of the ——— treasurer of the ——— of ———, state of California. This bond is issued to represent the cost of certain street work upon ———, in the ——— of ———, as the same is more fully described in assessment number ———, issued by the street superintendent of said ———, after his acceptance of said work, and recorded in his office. Its amount is the amount assessed in said assessment against the lot or parcel of land numbered therein, and in the diagram attached thereto, as number ———, and which now remains unpaid, but until paid, with accrued interest, is a first lien upon the property affected thereby, as the same is described herein, and in said recorded assessment with its diagram, to wit: the lot or parcel of land in said ——— of ———, county of ———, state of California, ———.

This bond is payable exclusively from said fund, and neither the municipality nor any officer thereof is to be holden for payment otherwise of its principal or interest. The term of this bond is ——— years from its date, and at the expiration of said time the whole sum then unpaid shall be due and payable; but on the second day of January of each year after its date an even annual proportion of its whole amount is due and payable, upon presentation of the coupon therefor, until the whole is paid, with all accrued interest at the rate of ——— per centum per annum.

The interest is payable semi-annually, to wit: on the second days of January and of July in each year hereafter, upon presentation of the coupons therefor, the first of which is for the interest from date to the next second day of ———, and thereafter the interest coupons are for semi-annual interest, except the last, which is for interest from the semi-annual payment next preceding and to the date of the final maturity of this bond.

than fifty cents per front foot along each line of the street so proposed to be improved, including the cost of intersection work assessable upon said frontage, it shall have the power, in its discretion, to determine that serial bonds shall be issued to represent the cost of said work or improvement, in the manner and form hereinafter provided. Said serial bonds shall extend over a period not to exceed ten years from their date, and an even annual proportion of the principal sum thereof shall be payable, by coupon, on the second day of January every year after their date, until the whole is paid, and the interest shall be payable semi-annually, by coupon, on the second days of January and July, respectively, of each year, at the rate of not to exceed ten per cent per annum on all sums unpaid, until the whole of said principal and interest are paid. Said bonds and interest thereon shall be paid at the office of the city treasurer of said municipality, who shall keep a fund designated by the name of said bonds, into which he shall receive all sums paid him for the principal of said bonds and the interest thereon, and from which he shall disburse such sums, upon the presentation of said coupons; and under no circumstances shall said bonds or the interest thereon be paid out of any other fund. Said city treasurer shall keep a register in his office, which shall show the series, number, date, amount, rate of interest, payee and indorsees of each bond, and the number and amount of each coupon or principal or interest paid by him, and shall cancel and file each coupon so paid. [Amended March 2, 1899. Stats. 1899, p. 40.]

§ 3. When said city council shall determine that serial bonds shall be issued to represent the expenses of any proposed work or improvement under said street work act, it shall so declare in the resolution of intention to do said work, and shall specify the rate of interest which they shall bear. The like description of said bonds shall be inserted in the resolution ordering the work, in the resolution of award, and in all notices of said proceedings required by said street work act to be either posted or published; and also a notice that a bond will issue to represent each assessment of twenty-five dollars or more remaining unpaid for thirty days after the date of the warrant, or five days after the decision of said council upon an appeal, and describing the bonds, shall be included in the warrant provided for in section 9 of said street work act. [Amended March 2, 1899. Stats. 1899, p. 40.]

§ 4. After the full expiration of thirty days from the date of the warrant, or if an appeal be taken to the city council, as provided in section 11 of said street work act, then five days after the final decision of said council, and after the street superintendent shall have recorded the return, as provided in section 10 of the same act, the street superintendent shall make and certify to the city treasurer a complete list of all assessments unpaid, which amount to twenty-five dollars or over, upon any assessment or diagram number; and said treasurer shall thereupon make out, sign, and issue to the contractor, or his assigns, payee of the warrant and assessment, a separate bond, representing upon each

of the certified list of all assessments unpaid to the amount of twenty-five dollars or over by the street superintendent, to the city treasurer, and of the validity of said lien, up to the date of said list. [Amended March 2, 1899. Stats. 1899, p. 41.]

§ 5. Whenever, through the default of the owner of any lot or parcel of land to represent the assessment upon which such bond has been, or may hereafter be, issued, any payment, either upon the principal, or of the interest, has not been, or shall not be made when the same has become, or shall become due, and the holder of the bond thereupon demands, in writing, that the said city treasurer proceed to advertise and sell said lot or parcel of land as herein provided, then the whole bond or its unpaid remainder, with its accrued interest, as expressed in said bond, shall become due and payable immediately, and on the day following shall become delinquent.

Subdivision a. Upon the application of the holder of any bond that is now or shall hereafter become delinquent as provided in this section, the said city treasurer shall publish for two weeks in a newspaper of general circulation, to be designated by him, published in the city where his office is situated, a notice which must contain the date, number, and series of the delinquent bond, a description of the property mentioned in said bond, and the name of the owner of such property (if known), and if unknown, the fact shall be so stated, the amount due thereon, and a statement that unless the amount of said bond and the interest due thereon, together with the cost of publication of such notice are paid, the real property described in said bond will be sold at public auction on a day to be therein fixed, which shall not be less than fifteen nor more than thirty days from the day of the first publication of said notice, and the place of such sale, which must be the office of the said city treasurer.

Subdivision b. The city treasurer, before the day of sale hereinafter provided for, must file with the city clerk a copy of the publication, with an affidavit of the publisher of such newspaper, or some one in his behalf, attached thereto, that it is a true copy of the same; that the publication was made in a newspaper, stating its name and place of publication and the date of each appearance in which such publication was made—which affidavit is primary evidence of all the facts stated therein.

Subdivision c. The city treasurer must collect, in addition to the amount due on such bond, the cost of the publication of such notice, and fifty cents for the certificate of sale, as hereinafter provided.

Subdivision d. At any time prior to the sale, the owner or person in possession of any real estate offered for sale under the provisions of this act may pay the whole amount of said bond then due, with costs, and such bond shall thereupon be canceled; but in case such payment is not made by such owner, or person in possession, or by some one in behalf of such owner, or person in possession, the property subject thereto shall be sold as herein provided.

Should default be made in the annual payment upon the principal, or in any payment of interest from the owner of said lot or parcel of land, or any one in his behalf, the holder of this bond is entitled to declare the whole unpaid amount to be due and payable, and to have said lot or parcel of land advertised and sold forthwith, in the manner provided by law.

At said — of — this — day of —, in the year one thousand — hundred and —.

City treasurer of the — of —.

Provided, that in case the amount of unpaid assessments upon any lot or parcel of land shall be less than twenty-five dollars, then the same shall be collected as is hereinbefore provided in part one of said street work act.

Provided, also, that if any person, or his authorized agent, shall at any time before the issuance of the bond for said assessment upon his lot or parcel of land present to the city treasurer his affidavit, made before a competent officer, that he is the owner of a lot or parcel of land in said list, accompanied by the certificate of a searcher of records that he is such owner of record, and with such affidavit and certificate such person notifies said treasurer in writing that he desires no bond to be issued for the assessments upon said lot or parcel of land, then no such bond shall be issued therefor, and the payee of the warrant, or his assigns, shall retain his right for enforcing collection as if said lot or parcel of land had not been so listed by the street superintendent.

The bonds so issued by said treasurer shall be payable to the party to whom they issue, or order, and shall be serial bonds, as is hereinbefore described, and shall bear interest at the rate specified in the resolution of intention to do said work. They shall have annual coupons attached thereto, payable in annual order, on the second day of January in each year after the date of the bond, until all are paid, and each coupon shall be for an even annual proportion of the principal of the bond. They shall have semi-annual interest coupons thereto attached, the first of which shall be payable upon the second day of January or July, as the case may be, next after its date, and shall be for the interest accrued at that time, and the last of which shall be for the amount of interest accruing from the second day of January or July, as the case may be, next preceding the maturity of said bonds to the maturity thereof. The city treasurer shall, in addition to his other duties in the premises, report all coupon payments of principal upon said bonds to the street superintendent, who shall forthwith indorse the same upon the margin of the record of the assessment to the credit of which the same is paid, and said assessment shall be a first lien upon the property affected thereby until the bond issued for the payment thereof, and the accrued interest thereon, shall be fully paid. Said bonds, by their issuance, shall be prima facie evidence of the regularity of all proceedings thereto under said street work act and this act, previous to the making

a deed, and the owner of the property shall have the right of redemption indefinitely, until such notice shall have been given and said deed applied for, upon the payment of the fees, penalties, and costs in this act required. In case of unoccupied property, a similar notice must be posted in a conspicuous place upon the property at least thirty days before the expiration of the time for redemption, or thirty days before the purchaser applies for a deed; and no deed to the property sold, in accordance with the provisions of this act, shall be issued by the city treasurer to the purchaser of such property, until such purchaser shall have filed with such treasurer an affidavit showing that the notice herebefore required to be given has been given as herein required, which said affidavit shall be filed and preserved by the said treasurer as other records kept by him in his office. Such purchaser shall be entitled to receive the sum of fifty cents for his service of such notice and the making of said affidavit, which sum of fifty cents shall be paid by redemptioner at the time and in the same manner as the other sums, costs, and fees are paid.

Subdivision k. The deed, when duly acknowledged or proved, is primary evidence of the regularity of all proceedings theretofore had, and conveys to the grantee the absolute title to the lands described therein, as of the date of the expiration of the period for redemption free of all encumbrances, except the lien for state, county, and municipal taxes. [Amended March 2, 1899. Stats. 1899, p. 43.]

§ 6. Whenever any railroad track or tracks of any description exist upon any street or streets on which the city council has ordered work to be done or improvements made, excepting therefrom such portions as is [are] required by law to be kept in order or repair, by any person or company having railroad tracks thereon, the said council may, at any time thereafter, order such person or company to perform upon said excepted portion the work or improvements, similar in all respects to that already ordered to be performed under the same specifications and superintendence, with the same materials, within the same time, and to the like satisfaction and acceptance. Thereupon it shall be the duty of the clerk of said council to deliver immediately a copy of such order, certified by him, to such person or company, and to make and preserve in his office a certificate of such delivery, its date, and upon whom made. Should such person or company, for thirty days, or within such extension of time as the city council may grant, thereafter refuse or neglect to make or have made such work or improvement in the manner or time ordered, it shall be the duty of the city council to have such work or improvement performed, and such refusal or neglect punished in the manner provided by law. Within fifteen days after receiving the certified copy of said order, such person or company may file with the clerk of said council a written assumption of the performance of said work or improvement, according to the order, or a request to the council to have such work or improvement performed, for and at the expense of such person or company, in the manner herein provided. The failure to file such instrument within said time shall be taken and deemed to

Subdivision f. The city treasurer, before delivering any certificate, must, in a book kept in his office for that purpose, enter the date, number, and series of the bond, a description of the land sold corresponding with the description of the certificate, the date of sale, purchasers' name, the amount paid, regularly number the descriptions on the margin of the book, and put a corresponding number on each certificate. Such book must be open to public inspection during office hours when not in actual use, and he shall enter on the record of the bond the words "Canceled by sale of the property," giving the date of such sale.

Subdivision g. Immediately on the sale, the purchaser shall become vested with a lien on the property, so sold to him, to the extent of his bid, and is only divested of such lien by the payment to the city treasurer of the purchase money, including costs herein provided for, with interest thereon at the rate of one per cent per month from the date of sale.

Subdivision h. A redemption of the property sold may be made by the owner of the property, or any party in interest, within twelve months from the date of purchase, or at any time prior to the application for a deed, as hereinafter provided. Redemption must be made in lawful money of the United States, and when made to the city treasurer he must credit the amount paid to the person named in his certificate, and pay it on demand to him or his assignees.

Subdivision i. On receiving the certificate of sale, the recorder must file it, and make an entry in a book similar to that required of the city treasurer, the fee for which shall be fifty cents, and on presentation of the receipt of the city treasurer for the total amount of the redemption money, the recorder must, without charge, mark the word "Redeemed," the date, and by whom redeemed, on the margin of the book where the entry of the certificate is made.

Subdivision j. If the property is not redeemed within the time allowed by subdivision h hereof for its redemption, the city treasurer, or his successor in office, upon application of the purchaser or his assignee, must make to said purchaser, or his assignee, a deed to the property, reciting in the deed, substantially, the matter contained in the certificate, and that no person has redeemed the property during the time allowed for its redemption; the treasurer shall be entitled to receive from the purchaser two dollars for making said deed, which shall be deposited in the city treasury for the use of the city after payment has been made therefrom for the acknowledgment of said deed; provided, however, that the purchaser of the property, or his assignee must, thirty days prior to the expiration of the time of the redemption, or thirty days before his application for a deed, serve upon the owner or agent of the property purchased, if named in such certificate, and upon the party occupying the property, if the property is occupied, a written notice, stating that said property, or a portion thereof, has been sold to satisfy the bond lien, the date of sale, the date, number, and series of the bond, the amount then due, and the time when the right of redemption will expire, or when the purchaser will apply for

the sale of property described therein, shall apply hereto, except that the work required to be performed by the treasurer by said sections shall be performed by the street superintendent, in so far as the bonds for the paving of railroads are concerned. None of the provisions of the "Street Work Act" in regard to a protest against the work shall apply to any work contemplated by this section. All provisions of the "Street Work Act" not inconsistent with the provisions hereof shall apply hereto.

§ 7. The term "city treasurer," as used in this act, shall be held to mean and include any person who, under whatever name or title, is the custodian of the funds of the municipality.

§ 8. The act entitled "An act to amend an act entitled 'An act to provide for work upon streets, lanes, alleys, courts, places, and sidewalks, and for construction of sewers within municipalities,' approved March eighteenth, eighteen hundred and eighty-five, by adding thereto an additional part, numbered 4, consisting of sections 38, 39, 40, 41, 42, 43, and 44, relative to a system of street improvement bonds," approved March seventeen, eighteen hundred and ninety-one, is hereby repealed, except as to any and all proceedings hitherto commenced thereunder, which proceedings may be completed and have full force as is therein provided.

§ 9. This act shall take effect and become of force from and after its passage.

ACT 3933.

An act fixing and regulating the manner of sale and redemption of real property for delinquent assessments to pay the damages, costs, and expense for or incident to laying out, opening, extending, widening, straightening, diverting, curving, contracting, or closing up, in whole or in part, any street, square, lane, alley, court, or place within municipalities in this state.

[Approved March 27, 1895. Stats. 1895, p. 204.]

§ 1. All sales, and redemptions after sale, of any real property upon which the assessment levied and assessed to pay the damages, costs, and expense for or incident to laying out, opening, extending, widening, straightening, diverging, curving, constructing, or closing up, in whole or in part, any street, square, lane, alley, court, or place within municipalities in this state, shall remain unpaid and become delinquent under the provisions of any act or law regulating such matters, shall be made and had in the same time and manner as such sales and redemption were required by law to be made and had on the first day of January, Anno Domini eighteen hundred and ninety-five.

§ 2. All acts or parts of acts in conflict with this act are hereby repealed.

be a refusal to comply with the order. Upon reception of said assumption of the direct performance of said work or improvement, the city council shall take no further proceedings in the matter, unless such person or company neglects or fails for thirty days, or such further time as the council may grant, to comply with the provisions of the order. But if such person or company files the said request that the said council have such work or improvement performed, or fails to perform said work within thirty days, or within such further time as the council may grant, then said city council may pass an ordinance of intention to perform said work, which ordinance shall specify the work to be performed, and a statement that unless within thirty days after the recording of the return of the warrant, or within five days after the final decision of the council on an appeal, the said person or company shall pay the cost of said work, or the street superintendent of said city shall issue bonds to represent the cost of said work, stating also that the cost of said work, in case bonds shall issue, shall be paid in ten yearly installments, and also the rate of interest (not to exceed ten per cent per annum) that the same shall bear. The subsequent procedure shall be as provided by the "Street Work Act." A similar statement shall also be incorporated in all notices required to be posted or published by the provisions of the "Street Work Act"; also in the ordinance or resolution ordering the work, advertisement for proposals, and in the contract. Whenever the person or company owning any such railroad shall not have, within thirty days after the recording of the return of the warrant, or within five days after the final decision of the council on an appeal, paid the cost of such work, the street superintendent shall issue to the contractor, or his assigns, bonds for the amount of such cost, which shall describe the franchise, tracks, and roadbed along or between which said work has been performed, and describing the same as upon the assessment and diagram, giving its assessment number. Such bonds shall also describe the work performed, giving the total amount of the cost of such work, the name of the owner of said railroad, the number of installments in which the cost of the work is to be paid, and the rate of interest which the deferred payments shall bear. Said bonds shall be in sums of not less than one hundred dollars or more than one thousand dollars, and shall recite that the total amount of the cost of such work, together with the interest thereon, as represented in said bonds, is, except state, county, and municipal taxes, a first lien upon all the track, roadbed, switches, and franchises of said railroad lying within the corporate limits of the city or town, on any part of which said work has been performed. Said street superintendent shall also keep a record of such bonds, as required by section 18 of the "Street Work Act." Whenever bonds have been issued, as herein provided, the same, together with the cost of such work and the interest thereon, shall be, except state, county, or municipal taxes, a first lien upon all the tracks, roadbed, switches, and franchises of said railroad within the corporate limits of the city or town, on any part of which said work has been performed. Sections 4 and 5 of this act, regarding the form, issuance, and foreclosure of street bonds, and

work mentioned in section 1 hereof, and may exclude therefrom any of said work already done to the official grade.

Publication of resolution. Posting of notices. Publication of notice.

§ 3. Said ordinance or resolution of intention shall be conspicuously posted for two days on or near the chamber door of said legislative body, and published by two insertions in a daily or weekly newspaper published and circulated in said city, and designated by said legislative body for said purpose. If no such newspaper be so published and circulated in said city, such posting of said ordinance or resolution of intention shall be sufficient. The superintendent of streets shall thereupon cause to be conspicuously posted along all streets and parts of streets within the assessment district described in the ordinance or resolution of intention, not more than one hundred feet apart, notices (not less than three in all) of the passage of said ordinance or resolution. Said notices shall be headed "Notice of Street Work" in letters not less than one inch in length, shall be in legible characters, and shall state the fact and date of the passage of said ordinance or resolution of intention and the time and place fixed for the hearing of protests, and notify all persons interested to appear at said time and place with their objections to said improvement, if any they have, and briefly describe the proposed improvement, and refer to the ordinance or resolution of intention for further particulars. He shall also cause a notice of similar substance to be published for a period of five days in a daily newspaper published and circulated in said city, or if there is no such daily newspaper, then by two successive insertions in a weekly newspaper so published and circulated. If no such newspaper be so published and circulated in said city, such notice shall be also posted on or near the chamber door of the legislative body of said city, and in two other public places in said city. Such posting and publication must be completed at least fifteen days before the day set for the hearing of protests.

Protests, must contain what. Affidavits of posting. Findings of council. Hearing of protests.

§ 4. At or before the time fixed for the hearing, any person interested, objecting to the proposed improvement or to the extent of the assessment district described in the ordinance or resolution of intention, may file a written protest with the clerk of said legislative body. Every protest must contain a description of the property in which each signer thereof is interested and set forth the nature of his interest therein and must be accompanied by the affidavit of one of the signers thereof that each signature thereto is the genuine signature of the person whose name is thereto subscribed, and in case any signature is made by an agent, there must be attached to the protest the affidavit of the agent that he is duly authorized to sign such protest. Any protest not complying with the foregoing requirements shall not be considered by said legislative body. The clerk shall indorse on every such protest the date of its reception by him, and at the time fixed for the hearing, or

§ 3. This act shall take effect and be in force from and after its passage and approval.

ACT 3934.

An act to provide for the improvement of public streets, lanes, alleys, courts and places in municipalities, in cases where any damage to private property would result from such improvement, and for the assessment of the costs, damages and expenses thereof upon the property benefited thereby.

[Approved April 21, 1909. Stats. 1909, p. 1042.]

Street improvements. Damage to private property.

§ 1. Whenever the public interest or convenience may require, the legislative body of any city, after having by ordinance or resolution established or changed or modified the grade of any public street, lane, alley, court or place in said city, or any portion thereof, is hereby empowered, in any case where in the opinion of said legislative body any damage to private property would result from the improvement thereof, to order the whole, or any part, either in length or width, of such public street, lane, alley, court or place, to be improved to conform to such official grade by grading or regrading, paving or repaving, planking or replanking, macadamizing or remacadamizing, piling or repiling, capping or recapping, graveling or regraveling, oiling or re-oiling, sewerage or resewering, sidewalking or residewalking, curbing or recurbing, or guttering or reguttering, or by the building of storm water ditches or channels or breakwaters, levees, walls of rock or of other material to protect the same from overflow or injury, or by constructing manholes, culverts, bridges, cesspools, tunnels or cross-walks, or by the doing of any other work which shall be necessary to complete the whole or any portion of said public street, lane, alley, court or place, under the proceedings hereinbefore provided, and in accordance with plans and specifications prepared by the city engineer of said city, and approved by the legislative body thereof.

Resolution of intention.

§ 2. Before ordering any improvement described in section 1 hereof, the said legislative body shall pass an ordinance or resolution declaring its intention so to do, and that in its opinion damage to private property would result from such improvement, describing the proposed improvement, fixing a time and place for the hearing of protests in relation thereto by said legislative body, which time shall be not less than twenty nor more than thirty days from the date of the passage of said ordinance or resolution of intention, and specifying the exterior boundaries of the district of land to be benefited by said improvement and to be specially assessed to pay the costs and expenses thereof, and the damages caused by said improvement, which shall be known as the assessment district. Said legislative body may include in one improvement the whole or any portion of one or more streets, lanes, alleys, courts or other public places, and any or all of the different kinds of

said damages, and of all costs and expenses of the improvement, on the property benefited thereby. Said ordinance or resolution shall describe the improvement in the same manner as the ordinance or resolution of intention, and shall be published by two insertions in a daily or weekly newspaper published and circulated in said city, or if no such newspaper be so published and circulated, said ordinance or resolution shall be posted on or near the chamber door of the legislative body, and at two other public places in said city.

Commission to estimate damages.

§ 6. In any city having a board of public works created by its charter or by law, such board, and in other cities the mayor, city engineer or surveyor and superintendent of streets, or if all of such officers last mentioned do not exist in cities having no board of public works, any three competent and disinterested persons appointed by said legislative body, shall act as a commission to estimate the damages caused by said proposed improvement and to assess the same, and all costs and expenses of said proposed improvement upon the property benefited thereby. Such commissioners, if they are appointed by said legislative body as aforesaid, shall be sworn to make the assessment of benefits and damages faithfully, impartially and to the best of their ability. Said commission shall have power to subpoena witnesses to appear before it to be examined under oath, which any of said commissioners may administer.

Hearing petitions for damages.

§ 7. Upon the passage of the final ordinance or resolution referred to in section 5 hereof, said commission shall appoint a time and place for the hearing of petitions for damages caused by said improvement, and shall cause notice of such time and place to be published for at least five days in a daily newspaper, or three times in a weekly newspaper, published in said city, or if no such newspaper is so published and circulated, then by posting for two days in three public places in said city. The time set for hearing such petition shall be not less than thirty days from the first publication or posting of such notice. Before said hearing said commission shall view the location of the proposed improvement, and the property affected thereby. Said hearing may be continued from time to time by said commission.

Claims for damages.

§ 8. At or before the time set for hearing of petitions for damages any person owning property, and claiming that the same will be damaged by said proposed improvement, shall file with the city clerk, who shall transmit the same to the commission, a petition showing the fact of such ownership, the description of the property claimed to be damaged, its market value, and the amount of damages which it is claimed such property will sustain by the proposed improvement, and the postoffice address of such petitioner, or his agent. Every such petition shall be verified by the oath of the petitioner or his agent. After considering

at any other time to which the hearing may be adjourned, he shall present to said legislative body all protests so filed with him. Before the hearing of any protests there shall be filed with such legislative body affidavits showing that the said notices have been posted and published as hereinbefore required, and the said legislative body shall thereupon cause to be entered in its minutes an order reciting that notice of said hearing has been posted and published as required by law, and such order shall be prima facie evidence of the truth of the facts therein recited.

If such protests are against the said improvement, and the legislative body finds that the same are signed by the owners of a majority of the frontage of the property fronting on streets or parts of streets within the assessment district, all further proceedings under said ordinance or resolution of intention shall be barred, except as hereinafter provided, for six months after the presentation of such protests to such legislative body, and no new ordinance or resolution of intention for the same improvement shall be passed within said six months, unless the owners of a majority of the frontage of the property fronting on the streets or parts of streets within said assessment district shall in the mean time petition that said improvement be made. If such protests are against the improvement, and the legislative body finds that they are not signed by the owners of a majority of the frontage of the property fronting on streets or parts of streets within the assessment district, or if such protests are only against the extent of the assessment district, or if the proposed improvement is the construction of sewers, manholes, culverts, cesspools, cross-walks, gutters, curbs or sidewalks, or extends for a distance of not more than one block of any street and at least one block of such street immediately adjacent thereto on both ends of the block proposed to be improved has already been improved, or extends for a distance of not more than one block at the end of a street and at least one block immediately adjacent thereto has already been improved, the legislative body shall hear said protests at said meeting, or at any time to which the hearing thereof may be continued, and pass upon the same, and its decision shall be final and conclusive. If such protests are sustained, no further proceedings shall be had under said ordinance or resolution of intention, but a new ordinance or resolution of intention for the same improvement may be passed at any time. If such protests are denied, the proceedings shall continue as if such protests had not been made.

Jurisdiction, when acquired.

§ 5. If no protests are filed at or before the time fixed for the hearing thereof by the ordinance or resolution of intention, or if protests are filed, and after hearing are denied, as above provided, the legislative body shall have jurisdiction to order the improvement described in the ordinance or resolution of intention. Having acquired such jurisdiction, it shall by ordinance or resolution order such improvement to be made, and refer the same to the commission hereinafter provided for, to estimate the damages caused thereby, and report an assessment of

contractor desires the work or part thereof to be accepted he must make written application to that effect to the legislative body. Upon the filing of such application for acceptance, the clerk of the legislative body shall give not less than five days' notice by publication by two insertions in a daily or weekly newspaper published and circulated in the city, or by posting for two days in three public places in the city, in case no such newspaper is published and circulated therein, that at a certain time and place to be named in said notice the legislative body of the city will hear and consider any objections to the acceptance of the work, or part of the work, for the acceptance of which said contractor has made such application, and only after such hearing shall any work be accepted. If upon such hearing any objections to the acceptance are made and are sustained by the legislative body, the legislative body must require the contractor to take such steps as will remove such objections; and in the event of his failure to do so within such time as the legislative body shall prescribe, the legislative body may relet such portion of the work and charge the contractor the cost thereof together with all expenses incident to said reletting, and retain the same out of any moneys due or to become due to him under the contract, and also hold him and his sureties responsible therefor upon his bond.

The contract shall provide that the work must be commenced within twenty days after the contractor receives written notice from the superintendent of streets that there is sufficient money in the special fund devoted to the proposed improvement to pay the contract price, and completed within such time as the legislative body shall prescribe. If the contractor abandons the work, or fails to proceed with the same as rapidly as required by his contract, the legislative body may relet the contract, or any portion thereof, and pay the cost of the same and also any expenses incidental to the reletting, out of any funds due or to become due the contractor, and also hold him and his sureties responsible upon his bond for such cost and expenses, and also for any damages resulting from such abandonment.

Upon the signing of the contract for the doing of the work, the clerk of the legislative body, if there be no board of public works in said city, shall certify to such commission the amount of the contract price.

Assessment for benefits. What commission must report.

§ 10. The commission shall, as soon as practicable, after determining what damages will be caused by said improvement, and, after the signing of the contract for the work, assess the total amount of the damages so determined, the total amount of the contract price for the doing of such work, and the total amount of all the incidental expenses of such improvement, which shall include the necessary expenses and disbursements of the commission, the cost of making the assessment, and all expenses necessarily incurred by the city in connection with the proposed improvement for maps, diagrams, plans, surveys and other matters incident thereto, upon the respective lots or parcels of land in the assessment district described in the ordinance or resolution of in-

the petitions filed as hereinbefore provided, and after hearing the petitioners who may appear, and after viewing the location of the proposed improvement and the property affected thereby, said commission shall proceed to determine the amount of damages, if any, which will be sustained by each such petitioner because of the proposed improvement. No damages or compensation whatsoever shall be allowed or awarded to the owner of any property affected by said improvement unless a petition therefor be filed as provided in this section, and any property owner who fails to file a petition for damages as hereinbefore provided, shall be deemed to have waived any and all claims for damages caused by said improvement.

Proposals for doing work. Bids. Award of contract. Supervision of work.

§ 9. Before the awarding of any contract by the legislative body for doing any work authorized by this act, said legislative body shall cause notice, with specifications, to be posted conspicuously for five days on or near the chamber door of said legislative body, inviting sealed proposals or bids for doing the work ordered, and shall also cause notice of said work inviting said proposal, and referring to the specifications posted or on file, to be published for two days in a daily, or weekly newspaper published and circulated in said city, designated by said legislative body for that purpose, and in case there is no newspaper published in said city, then it shall only be posted as hereinbefore provided. Every bid shall be delivered to the clerk of the legislative body and shall be accompanied by a check certified by a responsible bank, amounting to ten per cent of the amount of the bid, payable to the order of the said clerk, or by a bond for the said amount, and so payable, signed by the bidder and by two sureties who shall justify before any officer competent to administer an oath, in double the said amount, and over and above all statutory exemptions, and said amount shall be forfeited to the city in case the bidder depositing the same does not, within ten days after written notice that the contract has been awarded to him, enter into a contract with the city to do the work, with the bond hereinafter required, and any other bonds required by law. Said bids shall be opened by the legislative body in public session and publicly declared, and no bid shall be considered unless accompanied by said bond or said certified check. The legislative body must let the contract to the lowest responsible bidder who shall give bond for the faithful performance of the work in such sum as may be required by it, and such other bonds as may be required by law, with sureties satisfactory to said legislative body; provided, however, that the legislative body may reject any and all bids, should it deem this for the public good, and also the bid of any person who has been delinquent or unfaithful in the performance of any former contract with the city, or of any other contract let by or under the authority thereof.

The contract must provide that the work shall be done under the supervision of the city engineer or surveyor, and no work shall be paid for until it has been accepted by the legislative body. Whenever the

tion 4 hereof for the form and substance of protests, and shall be filed with the clerk of the legislative body at or before the time fixed for the hearing. At the time fixed, or at any other time to which the hearing may be continued, the legislative body shall hear said report and any objections thereto, and any person interested may appear and be heard upon said report and objections.

After such hearing the legislative body shall pass upon the report and may confirm, modify or correct the same, or may confirm the report as modified or corrected, or order the commission to make and file a new report, which shall be heard in like manner as the first report, and after like notice of hearing. If no objections are filed, or if the objections filed are not sustained, the legislative body shall confirm the report. The action of the legislative body upon said report shall be declared by resolution entered upon its minutes, and shall be final and conclusive, except as to the damages to be caused by the proposed improvement; and when said report is confirmed, or is confirmed as modified or corrected, the clerk of the legislative body shall transmit the diagram and assessment provided for in section 10 hereof, as finally confirmed, to the city tax collector. The tax collector shall thereupon record such assessment and diagram in his office in a suitable book to be kept for that purpose, and append thereto his certificate of the date of such recording, and such record shall be the assessment-roll. From the date of such recording all persons shall be deemed to have notice of the contents of such assessment-roll. Immediately upon such recording the several assessments contained in such assessment-roll shall become due and payable, and each of such assessments shall be a lien upon the property against which it is made, paramount to all other liens, except taxes and prior assessments; and such lien shall only be discharged by payment of the assessment or by redemption of the land after sale for delinquency. The tax collector shall, upon the recording of said assessment, give notice by publication for five days in a daily newspaper published and circulated in said city, or by two insertions in a weekly newspaper so published and circulated; or in case no such daily or weekly newspaper is so published and circulated in said city, then by posting such notice for four days in three public places in said city, that said assessment has been recorded in his office and that all sums assessed therein are due and payable immediately, and that payment of the said sums must be made to him within thirty days after the date of the first publication or posting, which date shall be stated in the notice. Said notice shall also contain a statement that all assessments not paid before the expiration of the said thirty days shall become delinquent, and that thereupon five per cent upon the amount of each such assessment will be added thereto. When payment of any assessment is made the tax collector shall mark opposite such assessment the word "paid," the date of payment, and the name of the person by or for whom the same is paid, and shall give a receipt therefor. Upon the expiration of said period of thirty days, all assessments then unpaid shall become delinquent, and the tax collector shall mark each such assessment "delinquent" on said assessment-roll, and add five per cent to the amount thereof.

tention, in proportion to the benefits to be received by such lots or parcels of land, respectively, from the said improvement, and shall make and file with the clerk of the legislative body a report in writing containing the following:

1. A schedule describing the lots or parcels of land belonging to each petitioner for damages and which will be damaged by said proposed improvement, stating the amount of damages to each lot or parcel as determined by the commission, and the name of the owner of each such lot or parcel of land so damaged.

2. A diagram showing the assessment district, and also the boundaries and dimensions of the respective lots or parcels of land within said district, and each of such lots or parcels of land shall be given a separate number in red ink upon said diagram.

3. A proposed assessment of the total amount of damages that will be caused by said improvement, as determined by the commission, the total amount of the contract price for the work and the total amount of the incidental expenses thereof as above specified, upon the respective lots or parcels of land in said district in proportion to the benefits to be received by such lots or parcels of land, respectively, from said improvement. Said assessment shall refer to such lots or parcels of land upon said diagram by the red ink numbers thereof, and need contain no other description thereof, and shall show the names of the owners, if known, otherwise designating them as unknown; but no mistake in the name of the owner of any lot or parcel of land shall affect the validity of the assessment thereon.

In case the commissioners do not all agree, a majority of the whole number may make such report.

Hearing of report.

§ 11. Upon the filing of the report provided for in section 10 hereof, the clerk of the legislative body shall present such report to the legislative body, which shall fix a day for the hearing thereof by said legislative body, which day shall not be less than twenty days from the date of filing such report, and shall cause a notice of such hearing to be published by the clerk thereof, by three insertions in a daily newspaper published and circulated in said city, or if there be no daily newspaper in said city, then by two successive insertions in a weekly newspaper so published and circulated; or if no newspaper is so published and circulated, then by posting for two days in three public places in said city. Such publication shall be completed at least ten days before the date fixed for the hearing. Said notice shall state the fact that such report has been filed, and the date set for the hearing thereof, and require all persons interested to file with the clerk their objections, if any they have, to the confirmation of said report at or before the time fixed for the hearing.

Objections. Action of legislative body on report. Assessment-roll. Notice of assessment.

§ 12. Any objection to said report shall be in writing signed by the objector, or his agent, and shall comply with the requirements of sec-

the other to the purchaser, or if the city is the purchaser, to the clerk of the legislative body, who shall file the same in his office. Upon the filing of the copy of such certificate in the office of the tax collector, the lien of the assessment shall vest in the purchaser and is only divested by a redemption of the property as in this act provided.

The tax collector shall also enter upon the assessment-roll opposite the description of each piece of property offered for sale, the description of the portion thereof sold, the amount for which the same was sold, the date of the sale and the name of the purchaser.

Redemption of property sold.

§ 16. At any time before the expiration of one year from the date of the sale, any lot or parcel of land sold for a delinquent assessment may be redeemed by any party in interest by the payment to the tax collector of the amount for which the property was sold, and in addition thereto, ten per cent thereon if paid within six months from the date of sale; and twenty-five per cent if paid within twelve months. When redemption is made the tax collector shall note that fact and the date thereof on the duplicate certificate of sale on file in his office, and deposit the amount paid with the city treasurer, who shall credit the purchaser named in the certificate of sale with the said amount and pay the same to such purchaser, or to his assigns, upon the surrender of the certificate of sale and upon satisfactory proof of assignment thereof, if any. When the city is the purchaser, the tax collector shall notify the clerk of the legislative body of the redemption and such clerk shall thereupon cancel the certificate of sale on file in his office.

Deeds to purchaser. Service of notice by purchaser. Penalty on redemption.

§ 17. At any time after the expiration of twelve months from the date of sale, the tax collector must execute to the purchaser, or to his assignee on his application, if such purchaser or assignee has complied with the provisions of this section, a deed of the property sold, in which shall be recited substantially the matters contained in the certificate, also any assignment thereof, and the fact that no person has redeemed the property. The tax collector shall receive from the applicant for a deed, one dollar for making such deed, unless the city is the purchaser, in which case no charge shall be made therefor. The purchaser or his assignee, must at least thirty days before he applies for a deed, serve upon the owner of the property, and upon the occupant of such property, if the same is occupied, a written notice, setting forth a description of the property, that said property has been sold for a delinquent assessment (specifying the improvement for which the same was made), the amount for which it was sold, the amount necessary to redeem at the time of giving notice, and the time when such purchaser or assignee will apply to the tax collector for a deed. If the said owner cannot be found, after due diligence, said notice must be posted in a conspicuous place upon said property, at least thirty days before the time stated therein, at which the application for a deed

will be made. The person applying for a deed must file with the tax collector an affidavit or affidavits showing that notice of such application has been given, as herein required, and if the notice was not served on the owner of the property personally, that due diligence was used to find said owner; which affidavit or affidavits must be filed by the tax collector in his office. If redemption of the property is made after such affidavits are filed, and more than eleven months from the date of sale, the person making such redemption must pay, in addition to the other amounts required, three dollars for the service of notice and the making of such affidavits, which amount shall be paid over to the purchaser or his assignee in the same manner as other sums paid for redemption. No deed for any property sold for delinquent assessment shall be made until the purchaser or his assignee has complied with all the provisions of this section, and filed the proper affidavits with the tax collector.

Such deed shall be prima facie evidence of the truth of all matters recited therein and of the regularity of all proceedings prior to the execution thereof and of title in the grantees.

Disposition of funds collected.

§ 18. The funds collected by the tax collector under the proceedings herein provided for, either upon voluntary payment, or as the result of sales, shall be paid by said tax collector, as fast as collected, to the treasurer of said city, who shall place the same in a special fund designated by the number or name of the proceedings, and payments shall be made out of said special fund only for the purposes provided for in this act. To expedite the making of any such improvement, the legislative body may at any time transfer into said special fund, out of any money in the general fund, such sums as it may deem necessary, and the sums so transferred shall be deemed a loan to such special fund and shall be repaid out of the proceeds of the assessments provided for in this act. After all sales provided for in section 14 of this act have been made, the tax collector shall report to the legislative body of the city the amount collected.

Notice of payment of damages.

§ 19. When sufficient money is in the hands of the city treasurer, in the special fund devoted to the proposed improvement, to pay the total amount of estimated damages therefrom, all expenses of the proceeding and the cost of doing the work, it shall be the duty of the clerk of the legislative body to notify the contractor for the work of that fact, and to draw demands on said special fund for the respective amounts of damages awarded by the report, and to notify the owner of each parcel of land declared by the report to be damaged if the name of such owner is stated in the report, that the awards of damages are payable, and that he may receive the sum awarded to him on executing a release to said city of all liability for damages caused by said improvement. Such notification may be given by depositing a notice, postage prepaid, in the postoffice addressed to such person at his last known place of residence.

Refusal to accept award of damages.

§ 20. If any owner of property that will be damaged by the proposed improvement shall fail or refuse to accept the amount awarded to him by the report provided for in section 10 hereof, the legislative body may cause proceedings to be brought against him in the name of the city, in the proper superior court, to have the amount of damage to such property determined. Such proceedings shall conform, as nearly as may be, to the provisions of the Code of Civil Procedure regarding eminent domain; provided, however, that the plaintiff shall not be required to pay the amount of damages awarded within thirty days after judgment. In such proceeding the ordinance ordering the improvement shall be conclusive evidence of the necessity of the same.

If no such proceeding is brought against him any owner of property that is damaged by the proposed improvement may decline to accept the amount awarded him, if any, and bring an action against the city to recover the amount to which he claims to be entitled. Any such action must be brought within thirty days after the final completion of the improvement. If in such action he fails to recover more than the amount awarded to him by the report aforesaid, he shall not recover costs.

Supplemental assessment may be ordered.

§ 21. If the first assessment for any improvement fails to raise a sufficient amount of money to pay all costs, damages and expenses of the improvement, including any judgments rendered in the actions and proceedings mentioned in section 20 and the costs and expenses of such actions or proceedings, the legislative body may pay the deficit out of the general fund, or may order a supplemental assessment to raise such deficit, which shall be made and collected in the same manner, as nearly as may be, as the first assessment, and so on until sufficient money shall have been raised to pay for such improvement.

Meanings of certain words.

§ 22. The following words and phrases shall, where used in this act, have the following meanings:

1. The term "improvement" includes all the improvements mentioned in section 1 of this act.

2. The term "city" includes every incorporated city, city and county, or other corporation organized for municipal purposes.

3. The term "city treasurer" includes any officer who has charge and makes payment of the city funds.

4. The term "superintendent of streets" includes any officer or board whose duty it is by law to have the care or charge of streets or the improvement thereof, in any city. In any city where there is no superintendent of streets, or such board, the legislative body is hereby authorized to designate some other officer to perform the duties imposed by this act on the superintendent of streets, and all the provisions hereof applicable to the superintendent of streets shall apply to the officer so designated.

5. The term "owner" or the term "any person interested" is deemed to be the person owning the fee, or the person in whom on the day any

protest is filed, the legal title to real property appears by deeds duly recorded in the county recorder's office of the county in which said city is situate; or any person in possession of real property as the executor, administrator, trustee under an express trust, guardian or other legal representative of the owner, or any person in possession of real property under written contract of purchase, duly recorded.

6. The term "tax collector" includes any officer of the city whose duty it is to collect city taxes. In any city where there is no tax collector, the legislative body is hereby authorized to designate some other officer to perform the duties imposed by this act on the tax collector, and all the provisions hereof applicable to the tax collector shall apply to the officer so designated.

Certain acts not affected.

§ 23. This act shall in nowise affect an act entitled: "An act to provide for work upon streets, lanes, alleys, courts, places and sidewalks, and for the construction of sewers within municipalities," approved March 18, 1885; or an act entitled: "An act to provide a system of street improvement bonds to represent certain assessments for the cost of street work and improvements within municipalities, and also for payment of said bonds," approved February 27, 1893; or an act entitled: "An act to provide for local improvements upon streets, lanes, alleys, courts, places and sidewalks, and for the construction of sewers within municipalities, such act to be known as the 'Local Improvement Act of 1901,'" which became a law February 26, 1901, or amendments to any of said acts, or any other acts on the same subject, or apply to proceedings had thereunder, but is intended to and does provide an alternate system for making the improvements provided for by this act; and it shall be in the discretion of the legislative body of any city to proceed, in making said improvements, under the provisions either of this act or of such other acts; but when any proceedings are commenced under this act, the provisions of this act, and of such amendments thereof as may be hereafter adopted, and no other, shall apply to all such proceedings, and any provisions contained in said acts or any acts in conflict herewith shall be void and of no effect as to the proceedings commenced under this act.

Construction. Name of act.

§ 24. The provisions of this act shall be liberally construed to promote the objects thereof. This act may be designated and referred to as the "Street Improvement Act of 1909," and shall take effect and be in force upon its passage and approval.

ACT 3935.

An act to provide for work upon and the construction of sidewalks and curbing within municipalities.

[Approved March 6, 1909. Stats. 1909, p. 167.]

Public streets defined.

§ 1. All streets, lanes, alleys, places and courts in the municipalities of this state now open or dedicated, or which may hereafter be opened

or dedicated, to public use shall be deemed and held to be public streets, lanes, alleys, places and courts for the purposes of this act.

Sidewalks, order for. Notice of work, posting of. Objection by owners. Jurisdiction, when acquired.

§ 2. Whenever, in the opinion of the city council, public interest or public convenience may require the city council is hereby authorized and empowered to order sidewalks to be constructed in any street, lane, alley, place or court within such municipality. Before ordering any sidewalk to be constructed the city council shall pass a resolution of intention so to do and describing the work, which resolution shall be posted conspicuously for two days on or near the chamber door of said council and published by two insertions in a daily, semi-weekly or weekly newspaper, published and circulated in said city and designated by said city council for that purpose. The street superintendent shall thereupon cause to be conspicuously posted along the line where it is proposed said sidewalk shall be constructed and at not more than one hundred feet in distance apart, but not less than three in all, notices of the passage of said resolution. Said notice shall be headed "Notice of Sidewalk Work" in letters of not less than one inch in length and shall in legible characters state the fact of the passage of the resolution, its date and approval, the work or improvement proposed and refer to the resolution for further particulars. In case there is no newspaper published in said city, said resolution of intention shall be posted for six days on or near the chamber door of said council and copies thereof in two other conspicuous places in said city as hereinafter provided. The owners of a majority of the frontage of the property fronting on said proposed sidewalk and on the same side of the street, lane, alley, place or court where it is proposed said sidewalk shall be constructed may make a written objection to said proposed improvement within ten days after the expiration of the time of the publication and posting of said resolution of intention, which objection shall be delivered to the clerk of the city council, who shall indorse thereon the date of its reception by him. Thereupon the said city council shall at its next meeting fix a time for hearing such objections, not less than one week thereafter, and the city clerk shall thereupon notify the persons making such objections by depositing a notice thereof in the postoffice in said city, postage prepaid, addressed to each objector, or his agent when an agent appears for such objector. At the time specified said city council shall hear the objections urged and pass upon the same, and its decision thereon shall be final and conclusive. At the expiration of twenty days after the expiration of the time of said publication by said street superintendent and at the expiration of twenty-five days after the advertising and posting as aforesaid of any resolution of intention, if no written objection to the work therein described has been delivered as aforesaid by the owners of a majority of the frontage of the property fronting on said proposed work or improvement and on the same side of the street, lane, alley, place or court where it is proposed the said sidewalk shall be constructed, and at the expiration of fifteen days

after the decision of the city council upon objections made, if objections have been made, the city council shall be deemed to have acquired jurisdiction to order the work to be done or improvement to be made, which is authorized by this act, which order, when made, shall be posted for two days, the same as provided for the posting of the resolution of intention. Before passing any resolution for the construction of sidewalks, plans and specifications and careful estimates of the costs and expenses thereof shall be furnished to the city council, if required by it, by the city engineer of the city.

Owners may petition for construction.

§ 3. The owners of a majority in frontage of lots and lands fronting on the same side of any street, avenue, lane, alley, place or court where it is proposed that a sidewalk shall be constructed and of lots and lands liable to be assessed for the expense of the work petitioned to be done, or their duly authorized agents, may petition the city council to order such sidewalk to be constructed, and the city council may order the sidewalk to be constructed after notice of its intention so to do has been posted and published as provided in section 2 of this act.

Proposals for doing work. Bids. Readvertising. Awards. Election by owners. Delinquent contractors.

§ 4. Before awarding any contract for the construction of a sidewalk, the city council shall cause notice with specifications to be posted conspicuously for five days on or near the council chamber door of said council inviting sealed proposals or bids for doing the work ordered and shall also cause notice of the said work inviting said proposals or bids and referring to the specifications posted or on file to be published for two days in a daily, semi-weekly or weekly newspaper, published and circulated in said city designated by the council for that purpose, and in case there is no newspaper published in said city then said notice shall only be posted as hereinbefore provided. All proposals or bids offered shall be accompanied by a check payable to the order of the mayor of the city, certified by a responsible bank for an amount, which shall not be less than ten per cent of the aggregate of the proposal, or by a bond for said amount and so payable, signed by the bidder and by two sureties, who shall justify before an officer competent to administer an oath in double the said amount and over and above all statutory exemptions. Said proposals or bids shall be delivered to the clerk of the said city council and said council shall in open session examine and publicly declare the same; provided, however, that no proposal or bid shall be considered unless accompanied by said check or bond satisfactory to the council. The city council may reject any or all proposals or bids should it deem this for the public good and shall also reject the bid of any party who has been delinquent or unfaithful in any former contract with the municipality, and shall reject all proposals or bids other than the lowest regular proposal or bid of any responsible bidder and may award the contract for said work to the lowest responsible bidder at the prices named in his bid, which award shall be approved by the mayor or a

three-fourths vote of the city council. If not approved by him or a three-fourths vote of the city council, without further proceedings, the city council may readvertise for proposals or bids for the performance of the work as in the first instance and thereafter proceed in the manner in this section provided and shall thereupon return to the proper parties the respective checks and bonds corresponding to the bids so rejected, but the checks or bonds accompanying such accepted proposals or bids shall be held by the city clerk of said city until the contract for doing said work as hereinafter provided has been entered into, either by said lowest bidder or by the owners of three-fourths part of the frontage fronting on the same side of the street where said sidewalk is to be constructed, whereupon said certified check shall be returned to said bidder. But if said bidder fails, neglects or refuses to enter into the contract to perform said work as hereinafter provided then the certified check accompanying his bid and the amount mentioned therein shall be declared to be forfeited to said city and shall be collected by it and paid into its fund for repairs of streets; and any bond forfeited may be prosecuted and the amount due thereon collected and paid into said fund. Notice of such award of contract shall be posted for five days in the same manner as hereinbefore provided for the posting of the resolution of intention. The owners of three-fourths of the frontage of lots and lands upon the same side of the street where said sidewalk is to be constructed, or their agents, and who shall make oath that they are such owners or agents, shall not be required to present sealed proposals or bids, but may within ten days after the first posting of said notice of said award elect to take said work and enter into a written contract to construct said sidewalk at the price at which the same has been awarded. Should the said owners fail to elect to take such work and to enter into a written contract therefor within ten days or to commence work within fifteen days after the first posting of said award and to prosecute the work with diligence to completion, it shall be the duty of the superintendent of streets to enter into a contract with the original bidder, to whom the contract was awarded, and at the prices specified in his bid, but if such original bidder neglects, fails or refuses for fifteen days after the first posting of the notice of award to enter into the contract, then the said city council without further proceedings shall again advertise for proposals or bids as in the first instance and award the contract for the said work to the then lowest regular bidder. The bids of all persons and the election of all owners as aforesaid, who have failed to enter into the contract as herein provided, shall be rejected from any bidding or election subsequent to the first for the same work. If the owner or contractor, who may have taken any contract, does not complete the same within the time limited in the contract, or within such further time as the city council may give him, the superintendent of streets shall report such delinquency to the city council, which may relet the unfinished portion of said work after pursuing the formalities prescribed hereinbefore for the letting in the first instance. All contractors, contracting owners included, shall at the time of executing any contract for the construction of a sidewalk under the provisions in this act, execute

a bond to the satisfaction and approval of the street superintendent of said city with two or more sureties and payable to said city in such sum as the mayor may deem adequate conditioned for the faithful performance of the contract, and the sureties shall justify before some person competent to administer an oath in double the amount mentioned in such bond over and above all statutory exemptions. Before being entitled to a contract the bidder to whom the award was made or the owners who have elected to take the contract must advance to the street superintendent for payment by him the costs of publication and posting of the notices, resolution, orders or other incidental expenses and matters required under the proceedings prescribed in this act and such other notices as may be deemed requisite by the city council including in such incidental expenses the necessary surveying and superintendence of said work. And in case the work is abandoned by the city before the letting of the contract, the incidental expense incurred previous to such abandonment shall be paid out of the city treasury.

Superintendent of streets, powers and duties of.

§ 5. The superintendent of streets is hereby authorized, in his official capacity, to make all written contracts and receive all bonds authorized by this act and to do any other act, express or implied, that pertains to the street department under this act; and he shall fix the time for the commencement, which shall not be more than fifteen days from the date of the contract and for the completion of the work under all contracts entered into by him, which work shall be prosecuted with diligence from day to day thereafter to completion, and he may extend the time so fixed for completion of the work from time to time under direction of the city council. The work provided to be done under this act must in all cases be done under the direction and to the satisfaction of the superintendent of streets, and the materials used shall comply with the specifications and be to the satisfaction of said superintendent of streets, and all contracts made therefor must contain a provision to that effect and also express notice that in no case, except where it is otherwise provided in this act, will the city, or any officer thereof, be liable for any portion of the expense nor for any delinquency of persons or property assessed. The city council may, by ordinance, prescribe general rules directing the superintendent of streets and the contractor as to the material to be used and the mode of executing the work under all contracts thereafter made. The assessment and apportionment of the expense of all such work shall be made by the superintendent of streets in the mode herein provided.

Assessments, what lands liable for.

§ 6. Subdivision One.—It is considered and established by this act that the construction of a sidewalk authorized by this act is and will be of peculiar and special benefit, gain and advantage to the lots and lands fronting on such sidewalk on the same side of the street on which the sidewalk is constructed and not of peculiar or special benefit, gain or advantage to any other property. The expense incurred for the con-

struction of any sidewalk authorized by this act (which expense shall not include the cost of any work done in such portion of any street as is required by law to be kept in order and repair by any person or company having railroad tracks thereon) shall be assessed upon the lots and lands fronting thereon on the same side of the street where said sidewalks shall be constructed, each lot, or portion of lot, being separately assessed in proportion to the frontage at a rate per front foot sufficient to cover the total expense of the work, except the expense of so much thereof as shall be constructed upon any intersection or street crossing. The expense of that portion of the work constructed upon any intersection or street crossing shall be paid by the municipality out of the city treasury.

Owner may construct, when.

Subdivision Two.—It shall be lawful for the owner or owners of lots or lands fronting upon any street and on the same side of the street where a sidewalk is to be constructed, to perform at his or their own expense, after obtaining permission from the city council so to do, but before such council has passed its resolution of intention to order the sidewalk to be constructed, the work of constructing the sidewalk upon the same side of the street upon which his or their property so fronts, and thereupon to procure a certificate from the city engineer setting forth the fact of the construction of such sidewalk to the width and upon the grade and of the material as required by the city council.

Assessment to cover cost of work.

§ 7. After the contractor of any sidewalk work has fulfilled his contract to the satisfaction of the superintendent of streets of said city, or city council on appeal, the superintendent of streets shall make an assessment to cover the sum due for the work performed and specified in said contract (including any incidental expenses) in conformity with the provisions of the preceding section, or if any direction and decision be given by the city council on appeal then in conformity with such direction and decision, which assessment shall briefly refer to the contract, the work contracted for and performed and shall show the amount to be paid therefor together with any incidental expenses, the rate per front foot assessed, the amount of each assessment, the name of the owner of each lot or portion of lot (if known to the superintendent of streets); if unknown the word "unknown" shall be written opposite the number of the lot and the amount assessed thereon, the number of each lot, or portion or portions of the lot, assessed, and said assessment shall have attached thereto a diagram exhibiting each street or street crossing, lane, alley, place or court on which any work has been done and showing the relative location of each lot or portion of lot to the work done numbered to correspond with the numbers in the assessment and showing the number of feet fronting on said work contracted for and performed.

Warrant for assessment. Record of warrant. Lien. Defects in assessments.

§ 8. To said assessment shall be attached a warrant, which shall be signed by the superintendent of streets and countersigned by the mayor of said city. The said warrant shall be substantially in the following form:

Form of Warrant.

By virtue hereof, I (name of the superintendent of streets) of the city of —, county of — (or city and county of —) and state of California, by virtue of the authority vested in me as such superintendent of streets do authorize and empower (name of contractor) (his or their) agents or assigns, to demand and receive the several assessments upon the assessment and diagram hereto attached, and this shall be (his or their) warrant for the same.

(Date.)

(Name of superintendent of streets.)

Countersigned by

(Name of mayor.)

Said warrant, assessment and diagram together with the certificate of the city engineer to the effect that the work has been performed in accordance with the contract shall be recorded in the office of the said superintendent of streets. When so recorded the several amounts so assessed shall be a lien upon the lands, lots or portions of lots assessed respectively for the period of two years from the date of said recording unless sooner discharged; and from and after the date of said recording of any certificate, assessment, diagram and warrant all persons shall be deemed to have notice of the contents of the record thereof. After said warrant, assessment, diagram and certificate are recorded, the same shall be delivered to the contractor, or his agent or assigns, but not until after the payment to the superintendent of streets of the incidental expenses not previously paid; and by virtue of said warrant said contractor, or his agent or assigns, shall be authorized to demand and receive the amount of the several assessments made to cover the sum due for the work specified in the contract and assessment. Whenever it shall appear by any final judgment of any court in this state that any suit brought to foreclose the lien of any sum of money assessed to cover the expense of such sidewalk work done under the provisions of this act has been defeated by reason of any defect, error, informality, omission, irregularity or illegality in any assessment hereafter to be made and issued or in the recording thereof, or in the return thereof, made to or recorded by said superintendent of streets, any person interested therein may at any time within three months after the entry of said final judgment apply to said superintendent of streets, who issued the same, or to any superintendent of streets at the time of said application, for another assessment to be issued in conformity to law; and said superintendent of streets shall within fifteen days after the date of said application make and deliver to said applicant a new assessment, diagram and warrant in accordance with law, and the then mayor shall countersign the same as

now provided by law, which assessment shall be a lien for the period of two years from the date of said assessment and be enforced as provided by this act.

Demands upon persons assessed. Unknown owners. Return of warrant.

Lost warrants.

§ 9. The contractor, or his assigns, or some person in his or their behalf, shall call upon the persons assessed, or their agents, if they can conveniently be found, and demand payment of the respective amounts assessed to each. If any payment be made, the contractor, his assigns or some person in his or their behalf, shall receipt for the same upon the assessment in presence of the person making such payment and shall also give a separate receipt, if demanded. Whenever the person so assessed, or his or their agents, cannot conveniently be found, or whenever the name of the owner of the lot is stated as "unknown" on the assessment, then the said contractor, or his assigns or some person in his or their behalf, shall publicly demand payment on the premises assessed. The warrant shall be returned to the superintendent of streets within thirty days after its date with a return indorsed thereon signed by the contractor, or his assigns or some person in his or their behalf, verified upon oath, stating the nature and character of the demand and whether any of the assessments remain unpaid in whole, or in part, and the amount thereof. Thereupon the superintendent of streets shall record the return so made in the margin of the record of the warrant and assessment and shall also record the original contract referred to therein if it has not already been recorded in full length in a book to be kept for that purpose in his office and shall sign the record. The superintendent of streets is authorized at any time to receive the amount due upon any assessment-list and warrant issued by him and give a good and sufficient discharge therefor, provided that no such payment made after suit has been commenced without the consent of the plaintiff in the action shall operate as a complete discharge of the lien until the costs in the action shall be refunded to the plaintiff; and said superintendent may release any assessment upon the books of his office on payment to him of the amount of the assessment against any lot with interest or on the production to him of the receipt of the party, or his assigns, to whom the assessment and warrant were issued; and if any contractor shall fail to return his warrant within the time and in the form provided in this section, he shall thenceforth have no lien upon the property assessed; provided, however, that in case any warrant is lost upon proof of such loss a duplicate may be issued, upon which a return may be made with the same effect as if the original has been so returned. After the return of the assessment and warrant as aforesaid all amounts remaining due thereon shall draw interest at the rate of ten per cent per annum until paid.

Objections to work or assessments. Decisions of council to be final.

§ 10. The owners, whether named in the assessment or not, the contractor, or his assigns, and all other persons directly interested in any

work provided for in this act, or in the assessment, feeling aggrieved by any act or determination of the superintendent of streets in relation thereto, or who claim that the work has not been performed according to the contract in a good and substantial manner, or having or making any objection to the correctness or legality of the assessment or other act, determination, or proceedings of the superintendent of streets, shall, within thirty days after the date of the warrant, appeal to the city council, as provided in this section, by briefly stating their objections in writing, and filing the same with the clerk of said city council. Notice of the time and place of hearing, briefly referring to the work contracted to be done, or other subject of appeal, and to the acts, determinations, or proceedings objected to or complained of, shall be published for five days. Upon such appeal, the said city council may remedy and correct any error or informality in the proceedings, and revise and correct any of the acts or determinations of the superintendent of streets relative to said work; may confirm, amend, set aside, alter, modify, or correct the assessment in such manner as to them shall seem just, and require the work to be completed according to the directions of the city council; and may instruct and direct the superintendent of streets to correct the warrant, assessment, or diagram in any particular, or to make and issue a new warrant, assessment and diagram, to conform to the decisions of said city council in relation thereto, at their option. All the determinations and decisions of said city council, upon notice and hearing as aforesaid, shall be final and conclusive upon all persons entitled to appeal under the provisions of this section, as to all errors, informalities and irregularities which said city council might have remedied and avoided; and no assessment shall be held invalid, except upon appeal to the city council, as provided in this section, for any error, informality, or other defect in any of the proceedings prior to the assessment, or in the assessment itself, where the resolution of intention of the city council to order the work to be done, for which the assessment is made, has been actually published in any designated newspaper of said city for the length of time prescribed by law, before the passage of the resolution ordering the work to be done.

Unpaid assessments, suits for. Evidence. Power of court. Rule of practice.

§ 11. At any time after the period of thirty-five days from the day of the date of the warrant, as herein provided, or if an appeal is taken to the city council, as provided in section 10 of this act, at any time after five days from the decision of said council, or after the return of the warrant or assessment, after the same may have been corrected, altered or modified, as provided in said section 10 (but not less than thirty-five days from the date of the warrant), the contractor, or his assignee, may sue, in his own name, the owner of the land, lots or portions of lots, assessed on the day of the date of the recording of the warrant, assessment and diagram, or any day thereafter during the continuance of the lien of said assessment, and recover the amount of any assessment remaining unpaid, with interest thereon at the rate of

ten per cent per annum until paid. Suit may be brought in the superior court within whose jurisdiction the city is in which said work has been done, and in case of any assessment made against lots, portions of lots, or lands, if the owners thereof cannot, with due diligence be found, the service in each of such actions may be had in such manner as is prescribed in the codes and laws of this state. The said warrant, assessment, certificate and diagram, with the affidavit of demand and nonpayment, shall be held prima facie evidence of the regularity and correctness of the assessment and of the prior proceedings and acts of the superintendent of streets and city council upon which said assessment, warrant and diagram are based, and like evidence of the right of the plaintiff to recover in the action. The court in which said suit shall be commenced shall have power to adjudge and decree a lien against the premises assessed, and to order such premises to be sold on execution, as in other cases of the sale of real estate by the process of said courts; and on appeal the appellate courts shall be vested with the same power to adjudge and decree a lien and to order such premises to be sold on execution or decree as is conferred on the court from which an appeal is taken. Such premises, if sold, may be redeemed as in other cases. In all suits brought to recover sidewalk assessments, the proceedings therein shall be governed and regulated by the provisions of this act, and also, when not in conflict herewith, by the codes of this state. This act shall be liberally construed to effect the ends of justice and to promote the objects of the act. No error, or irregularity, or departure, or difference, in procedure from those specified in this act, which does not cause a substantial loss or detriment to the property owner whose property is assessed, shall affect the legality of the proceedings, or the validity of the lien provided by this act.

Repairs to sidewalks. Failure to repair, a misdemeanor. Property liable for repairs.

§ 12. When any sidewalk constructed on any street, avenue, lane, alley, court or place shall be out of repair or needing reconstruction and in a condition to endanger persons or property passing thereon, or to interfere with the public convenience in the use thereof, it shall be the duty of the superintendent of streets, by notice in writing delivered to the owner of the adjoining premises, or to their agents, personally, or left on the premises, to require the owners or occupants of lots, or portions of lots, fronting on said sidewalk and on the same side of the street where said sidewalk is located, to repair or reconstruct said sidewalk, or to do both, forthwith, and said superintendent of streets shall particularly specify in said notice what work is required to be done and how the same is to be done and what kind of material shall be used in said repairs or reconstruction or both. If said repairs or reconstruction be not commenced within three days after notice given as aforesaid and diligently and without interruption prosecuted to completion, the owners or occupants of said lots having been given notice as aforesaid shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be subject to a fine not exceeding two hundred dollars or imprison-

ment in the city jail not exceeding one hundred days, or both such fine and imprisonment, and the said superintendent of streets may, if said repairs or reconstruction be not commenced within three days after notice given as aforesaid, under authority from the city council, make such repairs or reconstruction, or both, and enter into a contract with any suitable person for that purpose, at the expense of the owner or occupant, after the specifications for doing said work shall have been conspicuously posted by him in his office for two days inviting bids for the doing of said work, which bids shall be delivered to him at his office on or before the second day of said posting and opened by him on the next day following said two days of posting, and the contract shall by him be awarded to the lowest bidder if such lowest bid in the judgment of such street superintendent shall be reasonable. All of such bids shall be preserved in his office and open at all times after the letting of the contract to the inspection of all persons, and the owner or occupant of the lots fronting on said sidewalk and on the same side of the street shall be liable to pay such contract price. Said work of reconstruction or repair shall be commenced within twenty-four hours after the contract shall have been signed and completed without delay to the satisfaction of the said superintendent of streets. Upon the completion of said repairs or reconstruction to the satisfaction of the superintendent of streets, he shall make and deliver to the contractor a certificate to the effect that said repairs or reconstruction have been properly made by said contractor and that the charges for the same are reasonable and just and that he, the said superintendent of streets, has accepted the same. Said certificate shall describe the property liable for the payment for said repairs or reconstruction and said certificate shall be recorded in a book kept in the office of the superintendent of streets for that purpose and shall constitute a lien on the said property liable for the payment of said repairs or reconstruction. If the expense of such repair or reconstruction after the completion thereof and the delivery by the superintendent of streets to the contractor of said certificate be not paid to the contractor, or his agent or assignee, on demand, the said contractor, or his assignee, shall have the right to sue such owner or occupant of such lands for the amount contracted to be paid and to foreclose and enforce the lien therefor the same as provided herein for foreclosures and enforcements of the liens in other cases.

Cumulative powers of council.

§ 13. In addition to the other remedies herein given and as cumulative thereto the city council shall have power to prescribe the penalties that shall be incurred by any owner or person liable or neglecting or refusing to make repairs or reconstruction of sidewalks when required as provided by this act.

"Owner" defined.

§ 14. The person owning the fee or the person in whom on the day the action is commenced appears the legal title to the lots or lands by deeds duly recorded in the county recorder's office of the county. or the

person in possession of lands, lots, or portions of lots, or buildings, under claim or exercising acts of ownership over the same for himself, or as executor, administrator, guardian or trustee of the owner, shall be regarded and treated and deemed to be the "owner" according to the intent and meaning of that word as used in this act, and in case of leased property the possession of the tenant or lessee holding and occupying under such persons shall be deemed to be the possession of such owner.

Lessees and tenants, rights of.

§ 15. Any tenant or lessee of the lands or lots liable for assessment under this act may pay the amount assessed against the property of which he is such tenant or lessee and may deduct the amount so paid from the rents due and to become due from him, and he shall have a lien upon and may retain possession of the lands and lots until the amount so paid by him shall be satisfied with legal interest from accruing rents, or by payment by the owner.

Records of superintendent, force of.

§ 16. The records kept by the superintendent of streets in conformity with the provisions of this act and signed by him shall have the same force and effect as other public records, and copies therefrom duly certified may be used in evidence with the same effect as the originals. Said records shall during all office hours be open to the inspection of any citizen wishing to examine them, free of charge.

Notices, service of. Engineering and surveying by whom done.

§ 17. Notices in writing, which are required to be given or posted by the superintendent of streets under the provisions of this act, may be served or posted by any person with the permission of the superintendent of streets, or such notices may be given, served or posted by the superintendent of streets personally. A record of the fact of the giving, service and posting of such notices shall be kept in the office of the superintendent of streets. The superintendent of streets shall keep a public office in some convenient place within the municipality and keep therein such records as may be required by the provisions of this act. The city engineer, or where there is no city engineer the county, or city and county, surveyor shall be the proper officer to do the surveying and other engineering work to be done under this act, and to survey and measure the work to be done under contracts let under this act, and to estimate the costs and expenses thereof and every certificate signed by him in his official character shall be prima facie evidence in all courts of this state of the truth of its contents. He shall keep a record of surveys made under the provisions of this act as in other cases. In any city where there is no city engineer, the city council is hereby authorized to appoint a suitable person to discharge the duties herein laid down as those of city engineer and all the provisions hereof applicable to the city engineer shall apply to such person so appointed. Said city council is hereby empowered to fix his compensation for such services.

Definitions of certain terms.

§ 18. One—The term "incidental expenses" as used in this act shall include the compensation of the city engineer for work done by him; also, the cost for posting, printing and advertising as provided in this act; also, the compensation of superintendents for the work. All demands for incidental expenses shall be presented to the superintendent of streets by itemized bill duly verified by oath of the demandant.

Two—The word "municipality" and the word "city" as used in this act shall be understood and construed to include all corporations heretofore organized and now existing and those which may hereafter be organized for municipal purposes.

Three—The word "street" as used in this act shall be deemed to include avenues, highways, lanes, alleys, courts and places.

Four—The terms "street superintendent" and "superintendent of streets" as used in this act shall be construed to include any person or officer whose duty it is under the law to have the care or charge of the streets or the improvement thereof in any city. In any city where there is no street superintendent or superintendent of streets, the city council is hereby authorized to appoint a suitable person to discharge the duties of the superintendent of streets or street superintendent as specified in this act and all provisions hereof applicable to the street superintendent or superintendent of streets shall apply to the person so appointed.

Five—The term "city council" as used in this act is hereby declared to include any body or board which, under the law, is the legislative department of the government of any city.

Six—In municipalities in which there is no mayor the duties imposed upon such officer by the provisions of this act shall be performed by the president of the board of trustees or other chief executive officer of the municipality.

Seven—The term "clerk" or "city clerk" as used in this act is hereby declared to include any person or officer who shall be clerk of the board which constitutes the legislative department of the government of the city.

Curbing may be included.

§ 19. Whenever in the opinion of the city council it shall be convenient or proper so to do, said city council may in its discretion include under any proceedings taken under this act the construction of curbing as well as the construction of sidewalks, or the city council may provide for the construction of curbing without the construction of sidewalks; and all the provisions of this act whenever the city council shall elect to proceed thereunder to provide for the construction of curbing shall apply as fully to all such proceedings and to the work done thereunder and to the assessments made for the expense of the work and to the lien therefor as fully as if this act specifically and particularly related in each instance to the construction of curbing. As to the construction of curbing within municipalities this act shall be construed as a new, distinct and independent method of procedure and assessment from any provided in any act or acts in force at the time this act shall

take effect, which method of procedure and assessment so provided by this act may as to the construction of curbing be followed by the city council if it elects so to do. Nothing in this act, however, shall be construed as preventing the construction of curbing and the levy and collection of assessments for the expense thereof under the provisions of "An act to provide for work upon streets, lanes, alleys, places, courts, and sidewalks and for the construction of sewers within municipalities," approved March 18, 1885, and the several acts amendatory thereof and supplemental thereto.

Repeal of certain acts.

§ 20. This act shall be deemed as a repeal of "An act to provide for work upon streets, lanes, alleys, places, courts and sidewalks and for the construction of sewers within municipalities," approved March 18, 1885, and the several acts amendatory thereof and supplemental thereto so far as said act and the several acts amendatory thereof and supplemental thereto relate to sidewalks and the construction thereof, and to the assessments to be made and the enforcement of payments for the expense of the construction of such sidewalks, but as to all other street work and street improvement said act approved March 18, 1885, and the several acts amendatory thereof and supplemental thereto shall not be deemed as repealed, amended or affected by this act.

ACT 3938.

An act to provide for changing or modifying the grade of public streets, lanes, alleys, courts, or other places, within municipalities.

[Approved April 21, 1909. Stats. 1909, p. 1018.]

Power of city council to change grade.

§ 1. The city council of any city is hereby empowered to change or modify the grade of public streets, lanes, alleys, courts, or other places therein, in the manner hereinafter provided.

Resolution of intention. Publication of notice. Posting of notice.

§ 2. Before any change or modification of grade is ordered, the city council shall pass an ordinance or resolution of intention to order such change or modification of grade. Said ordinance or resolution of intention shall state the name of, or otherwise designate the public street, lane, alley, court or other place the grade of which, or any portion thereof, is proposed to be changed or modified, and shall set forth the change or modification of grade proposed to be made. One or more public streets, alleys, lanes, courts, or other places, or portions thereof, may be included in the same ordinance or resolution of intention. Said ordinance or resolution of intention shall be posted conspicuously for two days on or near the chamber door of said city council, and published by two insertions in a daily or weekly newspaper published and circulated in said city, and designated by said council for that purpose. If no such newspaper is published and circulated in said city, such ordinance or resolution of intention shall be posted for two days on or near the council chamber door, and in two other public places in said city.

The street superintendent shall thereupon cause to be conspicuously posted along all public streets, lanes, alleys, courts, or other places, or portions thereof designated in the said ordinance or resolution of intention, where such change or modification of grade is proposed to be made, at not more than one hundred feet in distance apart, notices, but not less than three in all, of the passage of said ordinance or resolution of intention. Said notice shall be headed "Notice of Change of Grade," in letters of not less than one inch in length, and shall in legible characters state the fact of the passage of the said ordinance or resolution of intention, its date, the name or other designation of the public street, lane, alley, court, or other place, or portion thereof, the grade of which is proposed to be changed or modified, and shall refer to the ordinance or resolution of intention for further particulars. He shall also cause a notice similar in substance to be published for six days in a daily newspaper published and circulated in said city, and designated by said city council for that purpose, or in cities where there is no daily newspaper, by two insertions in a weekly newspaper so published, circulated and designated. In case there is no daily or weekly newspaper published in said city, said notice shall be posted for six days on or near the chamber door of said council, and in two other public places in said city.

Protest of owners. Findings of council. Intersecting streets; protests.

§ 3. Any person or persons owning any real property fronting upon any public street, lane, alley, court or other place, or portion thereof, where such change or modification of grade is proposed to be made, may, within thirty days after the first publication of the notice of the passage of the ordinance or resolution of intention, or within thirty days after the first posting thereof, where no publication thereof is made, as hereinbefore provided, file a written protest with the clerk of the city council against such proposed change or modification of grade. Every such protest must contain a description of the property owned by each signer thereof, sufficient to identify the same, and if signed by more than one person, must be accompanied by the affidavit of one of the signers that each signature thereto is the genuine signature of the person whose name purports to be thereto subscribed; and in case any signature is made by an agent, there must be attached to the protest the affidavit of the agent that he is duly authorized to sign such protest. Any protest not complying with the foregoing requirements shall not be considered by said city council. The clerk of the city council shall indorse on every such protest the date of its reception by him; and at the next regular meeting of the city council after the expiration of the time for filing protests, shall present to said city council all protests so filed with him. If the city council finds that such protests are signed by the owners of a majority of the frontage of the property fronting on the public street, lane, alley, court, or other place, or portion thereof where such change or modification of grade is proposed to be made, all further proceedings under said ordinance or resolution of intention shall be stayed and barred for six months from and after the filing of such majority protests, except as hereinafter provided, unless the owners of

a majority of such frontage shall in the mean time petition the same change or modification of grade to be made; but a new ordinance or resolution of intention to make a different change or modification of grade of such public street, lane, alley, court, or portion thereof, may be passed at any time.

In the event that the ordinance or resolution of intention designates any public street, lane, alley, court or other place, or portion thereof, the grade of which is proposed to be changed or modified, and there be included in said ordinance or resolution of intention any other public street, lane, alley, court or other place, or portion thereof, intersecting therewith or terminating therein, the grade of which is also proposed to be changed or modified, the change or modification of grade of such public street, lane, alley, court or other place, and of such other public street, lane, alley, court or other place or portion thereof, so intersecting or terminating, shall not be stayed or barred by any protests, made and filed as hereinbefore provided, unless such protest be signed by the owners of a majority of the total frontage of the property fronting on all such public streets, lanes, alleys, courts or other places, or portions thereof, where such change or modification of grade is proposed to be made. If the city council finds that such protests are not signed by the owners of a majority of the property fronting on the public street, lane, alley, court or other place, or portion thereof, where such change or modification of grade is proposed to be made, or if the proposed change or modification of grade extends for a distance of not more than one block, and the grade of such public street, lane, alley, court, or other place, for at least one block thereof immediately adjacent to such block where such change or modification of grade is proposed to be made, on each side thereof, has already been established, or if the proposed change or modification of grade extends for a distance of not more than one block, at the end of a public street, lane, alley, court or place, and the grade thereof for at least one block thereof immediately adjacent to such block has already been established, the city council shall thereupon fix a time for hearing such protests not less than ten days after the meeting of the council at which such time is so fixed and shall cause notice of the time and place of such hearing to be published for two days in a daily newspaper published and circulated in said city, or by one insertion in a weekly newspaper so published and circulated; and if no daily or weekly newspaper be published and circulated in said city, then said notice shall be posted for two days on or near the council chamber door, and in two other public places in said city; and such publication or posting shall be completed at least five days before such hearing. The city council shall hear said protests at the time and place appointed, or at any time to which the hearing thereof may be continued, and pass upon the same, and its decision thereon shall be final and conclusive. If such protests are sustained, no further proceedings shall be had under said ordinance or resolution of intention, but a new ordinance or resolution of intention to make the same, or a different change or modification of grade may be passed at any time. If such protests are denied, the proceedings shall continue as if such protests had not been filed.

Jurisdiction, when acquired.

§ 4. If no protests are filed within the time hereinbefore provided, or if protests are filed, and after hearing are denied, as hereinbefore provided, the city council shall acquire jurisdiction to order the change or modification of grade described in the ordinance or resolution of intention to be made. Having acquired such jurisdiction, the city council shall by ordinance or resolution, order the change or modification of grade to be made as proposed by and described in the ordinance or resolution of intention. Said ordinance or resolution ordering the change or modification of grade shall be published by two insertions in a daily, or by one insertion in a weekly newspaper published and circulated in said city; or, if no such newspaper be published and circulated therein, the same shall be posted for two days on or near the council chamber door, and in two other public places in said city.

Who deemed to be owner.

§ 5. Except as otherwise hereinafter provided the person owning the fee, or the person in whom on the day any protest or petition is filed the legal title to real property appears, by deeds duly recorded in the county recorder's office of the county in which said city is situated, shall be deemed to be the owner thereof for the purposes of this act; provided, however, that any person in possession of real property as the executor, administrator, trustee, guardian, or other legal representative of the owner, or any person in possession of real property under written contract of purchase duly recorded, shall be deemed to be the owner thereof for the purposes of this act. In the case of property held by tenancy in common, if any cotenant sign a protest under this act, only the proportionate share of the frontage thereof represented by his interest therein shall be counted in determining the amount of frontage represented by such protest. In the event that the change or modification of grade proposed by the ordinance or resolution of intention is only on one side of any public street, lane, alley, court or other place, or portion thereof, only the owners of the real property fronting on the side of such public street, lane, alley, court or other place, or portion thereof where such change or modification of grade is proposed to be made, shall be entitled to make or file a protest under the provisions of this act. If the grade of any public street, lane, alley, court, or other place, or portion thereof, has been heretofore, or shall be hereafter changed or modified, nothing in this act contained shall be construed to prevent any subsequent change or changes, modification or modifications of grade of any such public street, lane, alley, court or other place, or portion thereof.

Meanings of certain words.

§ 6. The following words and phrases, where used in this act, shall have the following meanings:

1. The terms "municipality" and "city" include every incorporated city, city and county, or other corporation organized for municipal purposes.

2. The terms "city council" and "council" include any body or board in which by law is vested the legislative power of any city.

3. The terms "clerk" and "city clerk" shall include any person or officer who shall be clerk of the city council.

4. The term "superintendent of streets" includes any officer or board whose duty it is by law to have the care or charge of streets, or the improvement thereof, in any city. In any city where there is no superintendent of streets, or no such board, the legislative body is hereby authorized to designate some other officer to perform the duties imposed by this act on the superintendent of streets, and all the provisions hereof applicable to the superintendent of streets shall apply to the officer so designated.

Certain acts not affected. Intention of act. Name of act.

§ 7. This act shall in no wise affect an act entitled "an act to provide for work upon streets, lanes, alleys, courts, places and sidewalks, and for the construction of sewers within municipalities," approved March 18, 1885, or amendments thereto; or an act entitled "An act to amend an act 'An act to provide for work upon streets, lanes, alleys, courts, places, and sidewalks, and for the construction of sewers within municipalities,' approved March 18, 1885, by adding thereto certain new and additional sections, to provide the mode of carrying into effect certain provisions of said act relative to changing grades," approved March 31, 1891, or amendments thereto, or any other acts on the same subject; but is intended to and does provide an alternate system of proceedings for changing or modifying the grades of public streets, lanes, alleys, courts, or other places in municipalities; and it shall be within the discretion of the city council of any municipality to proceed in making any such change or modification of grade, either under the provisions of this act, or under the provisions of said acts hereinbefore mentioned, or amendments thereto; but when any proceedings are commenced under this act, the provisions of this act, and of such amendments thereto as may be hereafter adopted, and no other, shall apply to all such proceedings, and any provisions contained in said acts, or in any acts in conflict with the provisions hereof, shall be void and of no effect as to the proceedings commenced under the provisions of this act. The election of the city council to proceed under the provisions of this act shall be expressed in its ordinance of intention to order any change or modification of grade. The provisions of this act shall be liberally construed to promote the objects thereof. This act may be designated and referred to as the "Change of Grade Act of 1909."

§ 8. This act shall take effect immediately.

**TITLE 500.
SUISUN CITY.**

ACT 3938.

Authorizing and empowering board of trustees to grade and improve streets. [Stats. 1871-72, p. 658.]

"Superseded by 1885, p. 147, c. CLIII; and by the incorporation of the city under Municipal Government Act of 1883."—Code Commissioners' Note.

**TITLE 501.
SUMMONS.****ACT 3943.**

Concerning service of summons upon absent defendants. [Stats. 1871-72, p. 392.]

Repealed 1873-74, p. 495.

**TITLE 502.
SUNDAY.****ACT 3948.**

To prohibit barbarous and noisy amusements on the Christian Sabbath. [Stats. 1855, p. 50.]

Superseded by §§ 299-301, Penal Code, which have been repealed.

ACT 3949.

To provide for the better observance of the Sabbath. [Stats. 1858, p. 124.]

This act was declared void in *Ex parte Newman*, 9 Cal. 502. See *Ex parte Andrews*, 18 Cal. 679.

ACT 3950.

For the observance of the Sabbath. [Stats. 1861, p. 655.]

Superseded by Penal Code, § 299 et seq., which have been repealed.

ACT 3951.

To regulate and provide for a day of rest in certain cases. [Stats. 1880, p. 80.]

Unconstitutional: *Ex parte Westerfield*, 55 Cal. 550.

This act forbade baking between six P. M. Saturday and six P. M. Sunday.

ACT 3952.

To provide for a day of rest from labor. [Stats. 1893, p. 54.]

This act provided that every employee should be entitled to one day's rest in seven.

**TITLE 503.
SUPERVISORS.****ACT 3957.**

To enable boards of supervisors to authorize the employment of deputies in certain cases. [Stats. 1880, p. 27.]

Repealed by the County Government Acts: See 1897, p. 452.

ACT 3958.

To enable boards of supervisors and other legislative bodies to perform the duties prescribed by section 1, article XIV, of the constitution. [Stats. 1881, p. 54.]

Citations. Cal. 152/265, 266.

"Unconstitutional in part: *Fitch v. Supervisors*, 122 Cal. 285. See 1885, p. 95; *San Diego Land Co. v. National City*, 174 U. S. 739."—Code Commissioners' Note.

This act related to the fixing of water rates. See this act post, Act 4848.

ACT 3959.

Authorizing boards of supervisors to pay expenses of posse comitatus in criminal cases. [Stats. 1880, p. 102.]

In full in Appendix to Penal Code, p. 898.

ACT 3960.

To confer power upon supervisors to complete sewers. [Stats. 1881, p. 76.]

Superseded by County Government Act and the charter of San Francisco. Citations. Cal. 98/688.

ACT 3961.

Authorizing any board of supervisors to refund the bonded indebtedness. [Stats. 1885, p. 211.]

Superseded by subd. 18, § 25, 1897, p. 460.

ACT 3962.

Authorizing board of supervisors to transfer certain funds. [Stats. 1880, p. 133.]

Superseded by subd. 18, § 25, 1897, p. 463, and by §§ 4053, 4054 of Political Code.

This act authorized the transfer of swamp land funds to the general fund. Citations. Cal. 142/449, 450.

ACT 3963.

Empowering boards of supervisors to levy a special tax for the purpose of displaying products and industries of any county at domestic or foreign expositions, for the purpose of encouraging immigration and increasing trade in the products of the state. [Stats. 1901, p. 589.]

See this act post, Act 4041.

TITLE 504.**SUPREME COURT COMMISSIONION.****ACT 3968.**

To provide for the appointment of supreme court commissioner. [Stats. 1889, p. 13.]

Superseded 1893, p. 1.
Citations. Cal. 150/820.

ACT 3969.

Providing for the appointment of supreme court commissioners and their secretary. [Stats. 1893, p. 1.]

Continued 1897, p. 47; c. LII; 1899, p. 11; 1901, p. 273; 1903, p. 178.
See note on page 855 of Code of Civil Procedure.

TITLE 505.**SUPREME COURT LIBRARY.****ACT 3974.**

To provide a law library for the supreme court. [Stats. 1867-68, p. 659.]
Superseded by Political Code, §§ 2818-2816.

ACT 3975.

To authorize the justices of the supreme court to appoint a librarian for said court, and fixing a salary. [Stats. 1893, p. 132.]

TITLE 506.**SUPREME COURT REPORTER.****ACT 3980.**

Providing for the appointment of a deputy supreme court reporter. [Stats. 1881, p. 9.]

Repealed 1905, p. 210.

TITLE 507.**SURVEYOR-GENERAL.****ACT 3985.**

Authorizing the state surveyor general to furnish his office and vault therein, and making an appropriation therefor. [Stats. 1903, p. 252.]

TITLE 508.**SURVEYORS.****ACT 3990.**

An act to define the duties of and to license land surveyors. [Approved March 31, 1891. Stats. 1891, p. 478.]

Amended 1903, p. 267. Repealed 1907, p. 310. See next act.
Citations. Cal. 104/67; 142/588.

ACT 3991.

An act to define the duties of and to license land surveyors, and to repeal an act entitled, "An act to define the duties of and to license land surveyors," approved March 31, 1891.]

[Approved March 16, 1907. Stats. 1907, p. 310.]

Requirements to receive license.

§ 1. Every person desiring to become a licensed land surveyor in this state must present to the state surveyor general of this state a certificate that he is a person of good moral character; also a certificate signed by three licensed surveyors, which certificate shall set forth that the person named therein is, in the opinion of the person signing the same, a fit and competent person to receive a license as a land surveyor, together with his oath that he will support the constitution of this state and of the United States, and that he will faithfully discharge the duties of a licensed land surveyor, as defined in this act.

Surveyor general to issue license.

§ 2. Upon receipt of such certificate and oath by the state surveyor general, it shall be his duty to forthwith issue to such applicant a license, which license shall set forth the fact that the applicant is a competent surveyor, or that he has had at least two years' experience in the field as a surveyor or assistant surveyor.

Contents.

§ 3. Such license shall contain the full name of the applicant; the technical institution from which he is a graduate (if he be a graduate), or if he is not a graduate, the fact must be stated in the license; his birthplace, age, and to whom issued; the names of the licensed surveyors upon whose certificate the license is issued, and the date of its issuance.

Lists to be sent to county recorders.

§ 4. All papers received by the state surveyor general on application for licenses shall be kept on file in his office, and a proper index and record thereof shall be kept by him, and a list of all licensed land surveyors shall be kept by him, and he shall monthly transmit to the county recorder of each county in this state a full and correct list of all persons so licensed; and it is hereby made the duty of such recorders to keep such lists in their offices in such way as they may be easily accessible to all persons.

Seal of office.

§ 5. Every licensed surveyor shall have a seal of office, the impression of which must contain the name of the surveyor, his principal place of business, and the words "licensed surveyor"; and all maps and papers signed by him, and to which said seal has been attached, shall be prima facie evidence in all the courts of this state.

Term of license.

§ 6. Surveyors' licenses issued in accordance with this act, shall remain in force until revoked for cause, as hereinafter provided.

May administer oaths.

§ 7. Every licensed surveyor is authorized to administer and certify oaths, when it becomes necessary to take testimony to identify or establish old or lost corners; or if a corner or monument be found in a perishable condition, and it appears desirable that evidence concerning such corner or monument be perpetuated; or whenever the importance of the makes it desirable, to administer an oath, for the faithful performance of duty, to his assistants. A record of such oaths shall be preserved as part of the field-notes of the survey.

Duty of surveyors.

§ 8. Every licensed surveyor is hereby authorized to make surveys relating to the sale or subdivision of lands, the retracing or establishing of property or boundary lines, public roads, streets, alleys, or trails; and it shall be the duty of each surveyor, whenever making any such sur-

veys, except those relating to the retracing or subdivision of cemetery or town lots, whether the survey be made for private persons, corporations, cities, or counties, to set permanent and reliable monuments, and such monuments must be permanently marked with the initials of the surveyor setting them.

Record of surveys. What record must show.

§ 9. Within sixty days after a survey relating to the sale or subdivision of lands, the retracing or establishing of property and boundary lines, public roads or trails, original cemetery or townsites, and their subdivisions has been made by a licensed surveyor, he shall file with the recorder of the county in which such survey or any portion thereof lies, a record of survey. Such record shall be made in a good draughtsman-like manner, on one or more sheets of firm paper of the uniform size of twenty-one by thirty inches. This record of survey shall be either an original plat or a copy thereof, and must contain all the data necessary to enable any competent practical surveyor to retrace the survey. The record of survey must show: All permanent monuments set, describing their size, kind and location, with reference to the corners which they are intended to perpetuate; all bearing or witness trees marked in the field; complete outlines of the several tracts or parcels of land surveyed within courses, and lengths of boundary lines; the angles, as measured by Vernier readings, which the lines of blocks or lots, if the record relate to an original townsite survey, make with each other and with the center lines of adjacent streets, alleys, roads, or lanes; the variations of the magnetic needle with which old lines have been retraced; the scale of the map, the date of survey; a proper connection with one or more points of an original or larger tract of land, and the name of the same; the name of the grant or grants, or of the township and ranges, within which the survey is located; the signature and seal of the surveyor; provided, that nothing in this section shall require record to be made of surveys of a preliminary nature, where no monuments or corners are established.

County recorder to index records of surveys.

§ 10. The record of surveys thus filed with the county recorder of any county must be by him pasted into a stub book, provided for that purpose, and he must keep a proper index of such records, by name of owner, by name of surveyor, by name of grant, city, or town, and by United States subdivisions; and in all cases where such maps, plats, diagrams, or descriptions are filed by a state licensed land surveyor the county recorder shall make no charge for filing and indexing such records of surveys.

Revocation of license.

§ 11. It shall be the duty of the county surveyor of each county, immediately on ascertaining that any licensed surveyor has failed to comply with the requirements of this act, to furnish the surveyor general with satisfactory proofs of such fact. Upon receipt of such proofs, the

state surveyor general must revoke his license, and no other license shall be issued to him within one year from such revocation. A violation of section 9 of this act shall be a misdemeanor, and any person convicted of such violation shall be punished by a fine not to exceed one hundred dollars, or imprisonment in the county jail not exceeding thirty days.

Fees of surveyor general.

§ 12. The surveyor general shall receive a fee of ten dollars for each license, and five dollars for each duplicate license, issued by him; the fees so received to be paid into the state treasury to the credit of the general fund as provided in section 3574 of the Political Code.

Repeal of prior acts.

§ 13. An act entitled "An act to define the duties of and to license land surveyors," approved March 31, 1891, and all other acts, and parts of acts, in conflict with this act, are hereby repealed.

§ 14. This act shall take effect immediately.

TITLE 509.

SURVEYS.

ACT 3993.

An act to further perpetuate the markings of the government survey.
[Approved March 18, 1905. Stats. 1905, p. 102.]

§ 1. When in the performance of his official duties any county surveyor shall find a government corner which has been marked by any government surveyor by placing charcoal in the ground, or by a wooden stake, earth mound, or other perishable monument, it shall be his duty, to remark said corner by placing therein a monument of heavily galvanized iron pipe or galvanized iron stake not less than two inches in diameter and not less than two feet long, or other monument not less in size and equally imperishable.

§ 2. All such monuments located in public highways shall be placed with the top not less than twelve inches below the surface of the ground, but when not located in public highways, they shall be placed with the top six inches above the surface of the ground. If the top of the monument is placed above the ground, it shall be not less than four feet long, if of metal.

§ 3. The surveyor shall note witness objects that are within a reasonable distance of any corner, and state distance and course from said corner, and record the same in a properly indexed record-book kept in the county surveyor's office, which shall be a public record.

§ 4. All boards of supervisors are required to furnish all necessary pipes or stakes for monuments for their respective counties without cost, on demand.

TITLE 510.
SUTTER COUNTY.

ACT 3995.

Auditor and treasurer of to cancel certain certificates of the register of the state land office and certain controllers' warrants. [Stats. 1877-78, p. 324.]

ACT 3996.

Authorizing the transfer of funds. [Stats. 1875-76, p. 249.]
"Superseded by subd. 18, § 25, County Government Act, 1897, p. 463."—Code Commissioners' Note.

ACT 3997.

To authorize the transfer of certain funds in. [Stats. 1877-78, p. 1020.]

This act authorized the transfer of funds from the road district fund to the school fund on the petition of a majority of the taxpayers.

ACT 3998.

To provide for a separate judge for each of the counties of Yuba and Sutter. [Stats. 1897, p. 48.]

ACT 3999.

To provide for the protection of certain lands in from overflow. [Stats. 1867-68, p. 316.]

Amended 1871-72, p. 807. Supplemented 1871-72, p. 784.
"Unconstitutional as to § 21. (Brandenstein v. Hoke, 101 Cal. 181; Wilson v. Supervisors, 47 Cal. 91.)"—Code Commissioner's Note. See, also, People v. Whyter, 41 Cal. 851; Moulton v. Parks, 64 Cal. 166, 182.
Citations. Cal. 47/92; 51/407; 62/546; 64/179; 92/311; 181/31.

ACT 4000.

Authorizing transcribing of records in. [Stats. 1858, p. 205.]

ACT 4001.

Roads and highways in. [Stats. 1873-74, p. 573.]
Repealed 1888, p. 5, c. X, § 2.

ACT 4002.

School trustees, fixing time for election of. [Stats. 1875-76, p. 141.]
Repealed by Political Code, § 1598, as amended 1898, p. 247.
Consult, also, the following:

ACT 4003.

Relating to levee district No. 1. [Approved March 19, 1889. Stats. 1889, p. 355.]
Amending the act of 1873-74, p. 511.

ACT 4004.

Relating to swamp land district seventy. [Approved March 10, 1891. Stats. 1891, p. 62.]
Amending act of 1877-78, p. 580. See post, Act 4006.

ACT 4005.

Amending the act authorizing supervisors to construct bridge across Feather River. [Approved March 19, 1889. Stats. 1889, p. 323.]

ACT 4006.

An act to reorganize swamp land district number seventy, of Sutter county, and to provide for the construction, maintenance and repairs of levees therein. [Approved March 27, 1878. Stats. 1877-78, p. 580.]

Amended 1891, p. 62. Repealed 1907, p. 16.

TITLE 511.

SUTTER CREEK.

ACT 4010.

Town of, incorporating. [Stats. 1873-74, p. 887.]
Repealed 1875-76, p. 40.

ACT 4011.

Amador County, preventing hogs and goats running at large in. [Stats. 1875-76, p. 402.]
Repealed 1897, p. 198.

TITLE 512.

SUTTER'S FORT.

ACT 4016.

To provide for the acquisition of Sutter's Fort and appointing trustees therefor. [Stats. 1891, p. 25.]
Amended 1907, p. 838.

ACT 4017.

For the appointment of a guardian of Sutter's Fort, and prescribing his duties. [Stats. 1895, p. 56.]
Amended 1905, p. 171; 1909, p. 581.

ACT 4018.

An act authorizing the board of Sutter's Fort trustees to appoint a gardener for the purpose of caring for the grounds around Sutter's Fort, and providing for the compensation of said gardener. [Approved March 21, 1907. Stats. 1907, p. 776.]

ACT 4019.

An act providing for an assistant gardener for Sutter's Fort. [Approved April 14, 1909. Stats. 1909, p. 893.]

ACT 4020.

An act to grant permission to the "Sacramento Society of California Pioneers" to erect a memorial building on the grounds of the Sutter's

Fort Park in Sacramento City. [Approved March 15, 1907. Stats. 1907, p. 296.]

ACT 4021.

An act authorizing the board of Sutter's Fort trustees to improve a certain street in the city of Sacramento, to wit: Twenty-sixth Street from the south line of K Street to the north line of L Street, and to make an appropriation therefor. [Approved March 8, 1907. Stats. 1907, p. 184.]

TITLE 513.

SWAMP AND OVERFLOWED LANDS.

ACT 4022.

To provide for the proper distribution, in the several county treasuries, of funds arising from the sale of swamp lands. [Approved March 28, 1874. Stats. 1873-74, p. 770.]

ACT 4023.

Fresno and Kern counties, providing for determining rights in certain swamp and overflowed lands in. [Stats. 1877-78, p. 358.]
Citations. Cal. 61/192; 66/566, 568, 569.

ACT 4024.

State treasury, providing for payment of certain controller's swamp land warrants. [Stats. 1871-72, p. 873.]
This act pledged payments on swamp lands to the redemption of warrants.

ACT 4025.

Quieting title to certain lands. [Stats. 1873-74, p. 803.]
This act confirmed the title of certain swamp lands to J. P. Counts and Myron Smith.

ACT 4026.

Providing for the dissolution and annulment of swamp and overflowed land reclamation districts and protection districts for nonuser of corporate powers. [Approved February 17, 1899. Stats. 1899, p. 13.]

ACT 4027.

To declare certain tide lands public grounds, and granting the same to the county of San Mateo in trust for the use of the public. [Approved February 27, 1893. Stats. 1893, p. 42.]

ACT 4028.

Quitclaiming to the successors in interest of James Bowman all claim of the state in "Water Lot No. 415," in San Francisco. [Approved March 11, 1893. Stats. 1893, p. 151.]

ACT 4029.

An act to determine that lands of this state are swamp and overflowed when returned as such by the United States surveyor general.

[Approved March 31, 1891. Stats. 1891, p. 221.]

§ 1. Lands within this state which have been or may hereafter be returned by the United States surveyor general as swamp and overflowed lands, and shown as such on approved township plats, shall, as soon as patents have been or may be issued therefor by this state, be held to be of the character so returned; provided, however, that nothing herein contained shall be construed to affect the rights of any homestead or pre-emption settler claiming under the laws of the United States, nor shall it affect any suit now pending in any court as between the parties thereto; provided, that nothing contained in this act shall be construed to prejudice the rights of any settler now or hereafter located upon said lands to perfect title to the same, if permitted under existing laws.

§ 2. This act shall take effect from and after its passage.

ACT 4030.

Quitclaiming to the successors in interest of Sallie C. Perry all claim of the state of California in that certain tract of land in the city and county of San Francisco known as "City Slip Lot number one hundred and sixteen," and empowering and directing the governor to execute a deed of quitclaim therefor to said successors in interest of said Sallie C. Perry. [Approved March 9, 1893. Stats. 1893, p. 102.]

ACT 4031.

An act regulating the sale of the lands uncovered by the recession or drainage of the waters of inland lakes, and unsegregated swamp and overflowed lands, and validating sales and surveys heretofore made. [Approved March 24, 1893. Stats. 1893, p. 341.]

Amended 1899, p. 182.

Citations. Cal. 121/505; 136/492, 494, 497; 143/327, 328, 330, 332; 150/5. App. 5/600, 601, 603; 6/140, 708, 710, 711, 712.

Codified by §§ 3493m-3493t of Political Code.

ACT 4032.

An act to abolish the state board of tide land commissioners, and to repeal sections 365 and 698 of the Political Code.

[Approved February 4, 1876. Amendments 1875-76, p. 15.]

§ 1. The state board of tide land commissioners is hereby abolished.

§ 2. All books, maps, papers, and documents belonging to the archives of said board, and all other property of the state under its custody, must be deposited with and kept and preserved by the surveyor general of the state.

§ 3. Sections 365 and 698 of the Political Code are hereby repealed.

§ 4. An act entitled "An act supplementary to and amendatory of An act supplementary to and amendatory of an act entitled An act to survey and dispose of certain salt marsh and tide lands belonging to the state of California," approved March 30, 1868, also an act approved April 1, 1870, approved March 30, 1874, is hereby repealed.

§ 5. This act shall take effect and be in force from and after its passage.

ACT 4033.

To survey and dispose of certain salt marsh and tide lands belonging to the state. [Stats. 1867-68, p. 716.]

Supplemented and amended 1869-70, p. 541; 1873-74, p. 858. Was continued in force by § 8488, Political Code. See, however, subd. 4 of the act of 1875-76, p. 15, Act 4032, ante. See, also, Act 2858, ante.

TITLE 514. TAXATION.

ACT 4034.

An act to authorize the controller of state to appoint an inheritance tax deputy, prescribing his duties, and making an appropriation therefor. [Approved March 20, 1909. Stats. 1909, p. 557.]

ACT 4035.

An act to establish a tax on gifts, legacies, inheritances, bequests, devises, successions and transfers, to provide for its collection, and to direct the disposition of its proceeds; to provide for the enforcement of liens created by this act and for suits to quiet title against claims of lien arising hereunder; to repeal an act entitled "An act to establish a tax on collateral inheritances, bequests, and devises, to provide for the collection, and to direct the disposition of its proceeds," approved March 23, 1893, and all amendments thereto, and all acts and parts of acts in conflict with this act.

[Approved March 20, 1905. Stats. 1905, p. 341.]

Citations. Cal. 149/523, 524, 525, 526, 528, 530; 153/39, 226, 228, 230, 365, 717. App. 6/745, 746, 747; 8/182, 183.

See Trippett v. State, 149 Cal. 521.

§ 1. All property which shall pass, by will or by the intestate laws of this state, from any person who may die seized or possessed of the same while a resident of this state, or if such decedent was not a resident of this state at the time of death, which property, or any part thereof, shall be within this state, or any interest therein, or income therefrom, which shall be transferred by deed, grant, sale, or gift, made in contemplation of the death of the grantor, vendor or bargainor, or intended to take effect in possession or enjoyment after such death, to any person or persons, or to any body politic or corporate, in trust or

otherwise, or by reason whereof any person or body politic or corporate shall become beneficially entitled, in possession or expectancy, to any property, or to the income thereof, shall be and is subject to a tax hereinafter provided for, to be paid to the treasurer of the proper county, as hereinafter directed, for the use of the state; and such tax shall be and remain a lien upon the property passed or transferred until paid and the person to whom the property passes or is transferred and all administrators, executors, and trustees of every estate so transferred or passed shall be liable for any and all such taxes until the same shall have been paid as hereinafter directed. The tax so imposed shall be upon the market value of such property at the rates hereinafter prescribed and only upon the excess over the exemptions hereinafter granted.

Whenever any person or corporation shall exercise a power of appointment derived from any disposition of property made either before or after the passage of this act, such appointment when made shall be deemed a transfer taxable under the provisions of this act in the same manner as though the property to which such appointment relates belonged absolutely to the donee of such power and had been bequeathed or devised by such donee by will; and whenever any person or corporation possessing such a power of appointment so derived shall omit or fail to exercise the same within the time provided therefor, in whole or in part, a transfer taxable under the provisions of this act shall be deemed to take place to the extent of such omissions or failure, in the same manner as though the persons or corporations thereby becoming entitled to the possession or enjoyment of the property to which such power related had succeeded thereto by a will of the donee of the power failing to exercise such power, taking effect at the time of such omission or failure.

§ 2. When the property or any beneficial interest therein so passed or transferred exceeds in value the exemption hereinafter specified and shall not exceed in value twenty-five thousand dollars the tax hereby imposed shall be:

(1.) Where the person or persons entitled to any beneficial interest in such property shall be the husband, wife, lineal issue, lineal ancestor of the decedent, or any child adopted as such in conformity with the laws of this state, or any child to whom such decedent for not less than ten years prior to such transfer stood in the mutually acknowledged relation of a parent, provided, however, such relationship began at or before the child's fifteenth birthday, and was continuous for said ten years thereafter, or any lineal issue of such adopted or mutually acknowledged child, at the rate of one per centum of the clear value of such interest in such property.

(2.) Where the person or persons entitled to any beneficial interest in such property shall be the brother or sister or a descendant of a brother or sister of the decedent, a wife or widow of a son, or the husband of a daughter of the decedent, at the rate of one and one-half per centum of the clear value of such interest in such property.

(3.) Where the person or persons entitled to any beneficial interest in such property shall be the brother or sister of the father or mother, or

a descendant of a brother or sister of the father or mother of the decedent, at the rate of three per centum of the clear value of such interest in such property.

(4.) Where the person or persons entitled to any beneficial interests in such property shall be the brother or sister of the grandfather or grandmother or a descendant of the brother or sister of the grandfather or grandmother of the decedent, at the rate of four per centum of the clear value of such interest in such property.

(5.) Where the person or persons entitled to any beneficial interest in such property shall be in any other degree of collateral consanguinity than is heretofore stated, or shall be a stranger in blood to the decedent, or shall be a body politic or corporate, at the rate of five per centum of the clear value of such interest in such property.

§ 3. The foregoing rates in section 2 are for convenience termed the primary rates. When the market value of such property or interest exceeds twenty-five thousand dollars, the rates of tax upon such excess shall be as follows:

(1.) Upon all in excess of \$25,000 and up to \$50,000, one and one-half times the primary rates.

(2.) Upon all in excess of \$50,000 and up to \$100,000, two times the primary rates.

(3.) Upon all in excess of \$100,000 and up to \$500,000, two and one-half times the primary rates.

(4.) Upon all in excess of \$500,000, three times the primary rates.

§ 4. The following exemptions from the tax are hereby allowed:

(1.) All property transferred to societies, corporations, and institutions now or hereafter exempted by law from taxation, or any public corporation, or to any society, corporation, institution, or association of persons engaged in or devoted to any charitable, benevolent, educational, public, or other like work (pecuniary profit not being its object or purpose), or to any person, society, corporation, institution, or association of persons in trust for or to be devoted to any charitable, benevolent, educational, or public purpose, by reason whereof any such person or corporation shall become beneficially entitled, in possession or expectancy, to any such property or to the income thereof shall be exempt.

(2.) Property of the clear value of ten thousand (\$10,000) dollars transferred to the widow or to a minor child of the decedent, and of four thousand (\$4,000) dollars transferred to each of the other persons described in the first subdivision of section 2 shall be exempt.

(3.) Property of the clear value of two thousand (\$2,000) dollars transferred to each of the persons described in the second subdivision of section 2 shall be exempt.

(4.) Property of the clear value of one thousand five hundred (\$1,500) dollars transferred to each of the persons described in the third subdivision of section 2 shall be exempt.

(5.) Property of the clear value of one thousand (\$1,000) dollars transferred to each of the persons described in the fourth subdivision of section 2 shall be exempt.

(6.) Property of the clear value of five hundred (\$500) dollars transferred to each of the persons and corporations described in the fifth subdivision of section 2 shall be exempt.

§ 5. When any grant, gift, legacy, or succession upon which a tax is imposed by section 1 of this act shall be an estate, income, or interest for a term of years, or for life, or determinable upon any future or contingent event, or shall be a remainder, reversion, or other expectancy, real or personal, the entire property or fund by which such estate, income, or interest is supported, or of which it is a part, shall be appraised immediately after the death of the decedent, and the market value thereof determined, in the manner provided in section 14 of this act, and the tax prescribed by this act shall be immediately due and payable to the treasurer of the proper county, and together with the interest thereon, shall be and remain a lien on said property until the same is paid; provided, that the person or persons, or body politic or corporate, beneficially interested in the property chargeable with said tax, may elect not to pay the same until they shall come into the actual possession or enjoyment of such property, and in that case such person or persons, or body politic or corporate, shall execute a bond to the people of the state of California, in a penalty of twice the amount of the tax arising upon personal estate, with such sureties as the said superior court may approve, conditioned for the payment of said tax, and interest thereon, at such time or period as they or their representatives may come into the actual possession or enjoyment of such property, which bond shall be filed in the office of the county clerk of the proper county; provided further, that such person shall make a full and verified return of such property to said court, and file the same in the office of the county clerk within one year from the death of the decedent, and within that period enter into such security, and renew the same every five years.

§ 6. Whenever a decedent appoints or names one or more executors or trustees, and makes a bequest or devise of property to them in lieu of commissions or allowances, which otherwise would be liable to said tax, or appoints them his residuary legatees, and said bequest, devises, or residuary legacies exceed what would be a reasonable compensation for their services, such excess over and above the exemptions herein provided for shall be liable to said tax; and the superior court in which the probate proceedings are pending shall fix the compensation.

§ 7. All taxes imposed by this act, unless otherwise herein provided for, shall be due and payable at the death of the decedent, and if the same are paid within eighteen months, no interest shall be charged and collected thereon, but if not so paid, interest at the rate of ten per centum per annum shall be charged and collected from the time said tax accrued; provided, that if said tax is paid within six months from the accruing thereof a discount of five per centum shall be allowed and deducted from said tax. And in all cases where the executors, administrators, or trustees do not pay such tax within eighteen months from the death of the decedent, they shall be required to give a bond in the

form and to the effect prescribed in section 5 of this act for the payment of said tax, together with interest.

§ 8. The penalty of ten per cent per annum imposed by section 7 hereof, for the nonpayment of said tax, shall not be charged in cases where, in the judgment of the court, by reason of claims made upon the estate, necessary litigation, or other unavoidable cause of delay, the estate of any decedent, or a part thereof, cannot be settled at the end of eighteen months from the death of the decedent; and in such cases only seven per cent per annum shall be charged upon the said tax from the expiration of said eighteen months until the cause of such delay is removed, after which ten per cent interest per annum shall again be charged until the tax is paid; but litigation to defeat the payment of the tax shall not be considered necessary litigation.

§ 9. Any administrator, executor, or trustee having in charge or trust any legacy or property for distribution, subject to the said tax, shall deduct the tax therefrom, or if the legacy or property be not money he shall collect the tax thereon, upon the market value thereof, from the legatee or person entitled to such property, and he shall not deliver, or be compelled to deliver, any specific legacy or property subject to tax to any person until he shall have collected the tax thereon; and whenever any such legacy shall be charged upon or payable out of real estate, the executor, administrator, or trustee shall collect said tax from the distributee thereof, and the same shall remain a charge on such real estate until paid; if, however, such legacy be given in money to any person for a limited period, the executor, administrator, or trustee shall retain the tax upon the whole amount; but if it be not in money he shall make application to the superior court to make an apportionment, if the case require it, of the sum to be paid into his hands by such legatees, and for such further order relative thereto as the case may require.

§ 10. All executors, administrators, and trustees shall have full power to sell so much of the property of the decedent as will enable them to pay said tax, in the same manner as they may be enabled by law to do for the payment of debts of the estate, and the amount of said tax shall be paid as hereinafter directed.

§ 11. Every sum of money retained by an executor, administrator, or trustee, or paid into his hands, for any tax on property, shall be paid by him, within thirty days thereafter, to the treasurer of the county in which the probate proceedings are pending, and the said treasurer shall give, and every executor, or administrator, or trustee shall take duplicate receipts for such payment, one of which receipts said executor, administrator, or trustee shall immediately send to the controller of the state, whose duty it shall be to charge the treasurer so receiving the tax with the amount thereof, and said controller shall seal said receipt with the seal of his office, and countersign the same, and return it to the executor, administrator, or trustee, whereupon it shall be a proper voucher in the settlement of his accounts; and an executor, administrator,

or trustee shall not be entitled to credits in his accounts, nor be discharged from liability for such tax, nor shall said estate be distributed, unless he shall produce a receipt so sealed and countersigned by the controller, or a copy thereof, certified by him, and file the same with the court.

§ 12. Whenever any debts shall be proven against the estate of a decedent after the payment of legacies or distribution of property from which the said tax has been deducted or upon which it has been paid, and a refund is made by the legatee, devisee, heir, or next of kin, a proportion of the tax so deducted or paid shall be repaid to him by the executor, administrator, or trustee, if the said tax has not been paid to the county treasurer or to the state controller, or by them, if it has been so paid.

§ 13. If a foreign executor, administrator or trustee shall assign or transfer any stock or obligations in this state standing in the name of a decedent, or in trust for a decedent, liable to any such tax, the tax shall be paid to the treasurer of the proper county on the transfer thereof. No safe deposit company, trust company, corporation, bank or other institution, person or persons having in possession or under control securities, deposits, or other assets of a decedent, including the shares of the capital stock of, or other interests in, the safe deposit company, trust company, corporation, bank or other institution making the delivery or transfer herein provided, shall deliver or transfer the same to the executors, administrators or legal representatives of said decedent, or upon their order or request, unless notice of the time and place of such intended delivery or transfer be served upon the county treasurer at least ten days prior to said delivery or transfer; nor shall any such safe deposit company, trust company, corporation, bank or other institution, person or persons deliver or transfer any securities, deposits or other assets of the estate of a nonresident decedent including the shares of the capital stock of or other interests in, the safe deposit company, trust company, corporation, bank or other institution, making the delivery or transfer, without retaining a sufficient portion or amount thereof to pay any tax and penalty which may thereafter be assessed on account of the delivery or transfer of such securities, deposits, or other assets including the shares of the capital stock of or other interests in, the safe deposit company, trust company, corporation, bank or other institution making the delivery or transfer, under the provisions of this act, unless the county treasurer consents thereto in writing. And it shall be lawful for the said county treasurer, personally, or by representative, to examine said securities, deposits or assets at the time of such delivery or transfer. Failure to serve such notice and to allow such examination, and to retain a sufficient portion or amount to pay such tax and penalty as herein provided, shall render said safe deposit company, trust company, corporation, bank or other institution, person or persons liable to the payment of two times the amount of the tax and penalty due or thereafter to become due upon said securities, deposits or other

assets, including the shares of the capital stock of, or other interests in, the safe deposit company, trust company, corporation, bank or other institution, making the delivery or transfer; and the payment as herein provided shall be enforced in an action brought in accordance with the provisions of section 17 of this chapter.

§ 14. When the value of any inheritance, devise, bequest, or other interest subject to the payment of said tax is uncertain, the superior court in which the probate proceedings are pending, on the application of any interested party, or upon its own motion, shall appoint some competent person as appraiser, as often as and whenever occasion may require, whose duty it shall be forthwith to give such notice, by mail, to all persons known to have or claim an interest in such property, and to such persons as the court may by order direct, of the time and place at which he will appraise such property, and at such time and place to appraise the same and make a report thereof, in writing, to said court, together with such other facts in relation thereto as said court may by order require to be filed with the clerk of said court; and from this report the said court shall, by order, forthwith assess and fix the market value of all inheritances, devises, bequests, or other interests, and the tax to which the same is liable, and shall immediately cause notice thereof to be given, by mail, to all parties known to be interested therein; and the value of every future or contingent or limited estate, income, or interest shall, for the purposes of this act, be determined by the rule, method, and standards of mortality and of value that are set forth in the actuaries' combined experience tables of mortality for ascertaining the value of policies of life insurance and annuities, and for the determination of the liabilities of life insurance companies, save that the rate of interest to be assessed in computing the present value of all future interests and contingencies shall be five per centum per annum; and the insurance commissioner shall, on the application of said court, determine the value of such future or contingent or limited estate, income, or interest, upon the facts contained in such report, and certify the same to the court, and his certificate shall be conclusive evidence that the method of computation adopted therein is correct. The said appraiser shall be paid by the county treasurer out of any funds that he may have in his hands on account of said tax, on presentation of a sworn itemized account and on the certificate of the court at the rate of five dollars per day for every day actually and necessarily employed in said appraisement, together with his actual and necessary traveling expenses.

§ 15. Any appraiser appointed by virtue of this act who shall take any fee or reward from any executor, administrator, trustee, legatee, next of kin, or heir of any decedent, or from any other person liable to pay said tax, or any portion thereof, shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not less than two hundred and fifty dollars nor more than five hundred dollars, or imprisoned in the county jail ninety days, or both, and in addition thereto the court shall dismiss him from such service.

§ 16. The superior court in the county in which is situate the real property of a decedent who was not a resident of the state, or if there be no real property, then in the county in which any of the personal property of such nonresident is situate, or in the county of which the decedent was a resident at the time of his death, shall have jurisdiction to hear and determine all questions in relation to the tax arising under the provisions of this act, and the court first acquiring jurisdiction hereunder shall retain the same, to the exclusion of every other.

§ 17. If it shall appear to the superior court, or judge thereof, that any tax accruing under this act has not been paid according to law, it shall issue a citation, citing the persons known to own any interest in or part of the property liable to the tax or any person or corporation liable under the law for the payment of said tax to appear before the court on a day certain, not more than ten weeks after the date of such citation, and show cause why said tax should not be paid. The service of such citation, and the time, manner, and proof thereof, and the hearing and determination thereon, and the enforcement of the determination or decree, shall conform to the provisions of Chapter XII, of Title XI, of Part III, of the Code of Civil Procedure; and the clerk of the court shall, upon the request of the district attorney or treasurer of the county, furnish, without fee, one or more transcripts of such decree, and the same shall be docketed and filed by the county clerk of any county in the state, without fee, in the same manner and with the same effect as provided by section 674 of said Code of Civil Procedure for filing a transcript of an original docket.

§ 18. Whenever the treasurer of any county shall have reason to believe that any tax is due and unpaid under this act, after the refusal or neglect of the persons interested in the property liable to said tax to pay the same, he shall notify the district attorney of the proper county, in writing, of such failure to pay such tax, and the district attorney so notified, if he have probable cause to believe a tax is due and unpaid, shall prosecute the proceeding in the superior court, as provided in section 17 of this act, for the enforcement and collection of such tax.

§ 19. The controller of state shall furnish to each county clerk a book, which shall be a public record, and in which he shall enter the name of every decedent upon whose estate an application has been made to the superior court for the issuance of letters of administration, or letters testamentary, or ancillary letters, the date and place of death of such decedent, the estimated value of his real and personal property, the names, places of residence, and relationship to him of his heirs at law, the name and places of residence of the legatees and devisees in any will of any such decedent, the amount of each legacy and the estimated value of any real property devised therein, and to whom devised. These entries shall be made from the data contained in the papers filed on any such application, or in any proceeding relating to the estate of the decedent. The county clerk shall also enter in such book the amount of personal prop-

erty of any such decedent, as shown by the inventory thereof when made and filed in his office, and the returns made by any appraiser appointed by the court under this statute, and the value of annuities, life estates, terms of years, and other property of such decedent, or given by him in his will or otherwise, as fixed by the superior court, and the tax assessed thereon, and the amounts of any receipts for payment of any tax on the estate of such decedent under this statute filed with him. The county clerk shall, on the first day of January, April, July and October of each year make a report, in duplicate, upon forms to be furnished by the controller of the state, containing all the data and matters required to be entered in such book, and also of the property from which, or the party from which, he has reason to believe the tax under this act is due and unpaid, one of which shall be immediately delivered to the county treasurer and the other transmitted to the state controller.

§ 20. Whenever the superior court of any county shall certify that there was probable cause for issuing a citation and taking the proceedings specified in section 17 of this act, the state treasurer shall pay, or allow to the treasurer of any county, all expenses incurred for services of citation, and his other lawful disbursements that have not otherwise been paid.

§ 21. The treasurer of each county shall collect and pay the state treasurer all taxes that may be due and payable under this act, who shall give him a receipt therefor; of which collection and payment he shall make a report, under oath, to the controller, between the first and fifteenth days of May and December of each year, stating for what estate paid, and in such form and containing such particulars as the controller may prescribe; and for all such taxes collected by him and not paid to the state treasurer by the first day of June and January of each year he shall pay interest at the rate of ten per centum per annum.

§ 22. The treasurer of each county shall be allowed to retain, on all taxes paid and accounted for by him each year under this act, in addition to his salary or fees now allowed by law, three per centum on the first fifty thousand dollars so paid and accounted for by him, one and one-half per centum on the next fifty thousand dollars so paid and accounted for by him, and one-half of one per centum on all additional sums so paid and accounted for by him.

§ 23. The treasurer of each county, in his discretion, for the better furtherance of the purposes of this act, shall be allowed to employ such special attorney or attorneys, as he may deem necessary, who shall have all of the authority conferred upon the district attorney by sections 17 and 18 of this act, and such attorney shall be paid for his services out of the fees now allowed the treasurer as provided in section 22 of this act, and that in no case shall such compensation exceed the per centum allowed as such fees.

§ 24. Any person, or body politic or corporate, shall, upon payment of the sum of fifty cents, be entitled to a receipt from the county treas-

urer of any county, or a copy of the receipt, at his option, that may have been given by said treasurer for the payment of any tax under this act, to be sealed with the seal of his office, which receipt shall designate on what real property, if any, of which any decedent may have died seised, said tax has been paid, and by whom paid, and whether or not it is in full of said tax; and said receipt may be recorded in the clerk's office in the county in which said property is situate, in a book to be kept by said clerk for such purpose, which shall be labeled "inheritance tax."

§ 25. All taxes levied and collected under this act, up to the amount of \$250,000 annually, shall be paid into the treasury of the state, for the uses of the state school fund, and all taxes levied and collected in excess of \$250,000 annually shall be paid into the state treasury to the credit of the general fund thereof.

§ 26. Every officer who fails or refuses to perform, within a reasonable time, any and every duty required by the provisions of this act, or who fails or refuses to make and deliver within a reasonable time any statement or record required by this act, shall forfeit to the state of California the sum of one thousand dollars, to be recovered in an action brought by the attorney general in the name of the people of the state on the relation of the controller.

§ 27. An act entitled "An act to establish a tax on collateral inheritances, bequests and devises, to provide for its collection, and to direct the disposition of the proceeds," approved March 23, 1893, and all amendments thereto, and all acts and parts of acts in conflict with this act are hereby expressly repealed.

§ 28. The words "estate" and "property" as used in this act shall be taken to mean the real and personal property or interest therein of the testator, intestate, grantor, bargainor, vendor, or donor passing or transferred to individual legatees, devisees, heirs, next of kin, grantees, donees, vendees, or successors, and shall include all personal property within or without the state. The word "transfer" as used in this act shall be taken to include the passing of property or any interest therein, in possession or enjoyment, present or future, by inheritance, descent, devise, succession, bequest, grant, deed, bargain, sale, gift, or appointment in the manner herein described. The word "decedent" as used in this act shall include the testator, intestate, grantor, bargainor, vendor, or donor.

§ 29. In all cases where any tax has become or shall hereafter become a lien upon any property under or by virtue of any of the provisions of this act the district attorney of the county in which the estate of the decedent mentioned in this act is being administered, or has been administered in probate proceedings, may, whenever any property of said estate has been distributed without the payment to the state of all or any part of the taxes payable on account thereof under this act, bring and prose-

cute an action or actions in the name of the state as plaintiff, for the purpose of enforcing such lien or liens against all or any of the property subject thereto. In any such action the owner of any property or of any interest in property against which the lien of any such tax is sought to be enforced, and any predecessor in interest of any such owner whose title or interest was deraigned through any such decedent by will or succession or by decree of distribution of the estate of such decedent, and any lienor or encumbrancer subsequent to the lien of such tax may be made a party defendant. The enumeration in this section of the persons who may be made defendants shall not be deemed to be exclusive, but the joinder or nonjoinder of parties, except when otherwise herein provided, shall be governed by the rules in equity in similar cases.

(a) Actions may be brought against the state for the purpose of quieting the title to any property, against the lien or claim of lien of any tax or taxes under this act, or for the purpose of having it determined that any property is not subject to any lien for taxes under this act. In any such action, the plaintiffs may be any administrator or executor of the estate or will of any decedent, whether the said estate shall have been fully administered and estate settled and closed or not, and any heir, legatee or devisee of any such decedent, or trustee of the estate or of any part of the estate of such decedent, or distributee of the estate or of any part of the estate of any such decedent, and any assignee, grantee or successor in interest of any of such persons, and all or any other persons who might be made parties defendant in any action brought by the state under the provisions of this section, and notwithstanding that all or any of the persons enumerated in this section shall or may have assigned, granted, conveyed or otherwise parted with all or any interest in or title to the property, or any thereof, involved in any such claim or lien before the commencement of such action. All or any of the persons in this action enumerated may be joined or united as parties plaintiff. The enumeration in this section of the persons who may be made parties shall not be deemed to be exclusive, but the joinder or nonjoinder of parties, except when otherwise herein provided, shall be governed by the rules in equity in similar cases. In all cases any person who might properly be a party plaintiff in any such action who refuses to join as plaintiff may be made a defendant.

(b) All actions under this section shall be commenced in the superior court of the county in which is situated any part of any real property against which any lien is sought to be enforced, or to which title is sought to be quieted against any lien, or claim of lien; but if in said action no lien against real property is sought to be enforced, the action shall be brought in the superior court of the county which has or which had jurisdiction of the administration of the estate of the decedent mentioned herein.

(c) Service of summons in the actions brought against the state shall be made on the secretary of state and on the district attorney of the county in which the estate of the decedent mentioned herein is being administered, or has been administered in probate proceedings, and it shall be the duty of said district attorney to defend all such actions.

(d) The procedure and practice in all actions brought under this section, except as otherwise provided in this act, shall be governed by the provisions of the Code of Civil Procedure in relation to civil actions, so far as the same shall or may be applicable, including all provisions relating to motions for new trials and appeals.

(e) The remedies provided in this section shall be in addition to and not exclusive of any remedies provided in the sections preceding this section.

§ 30. This act shall take effect and be in force from and after July 1, 1905.

ACT 4036.

An act authorizing the bringing of actions on behalf of the state for the purpose of enforcing the lien or liens of taxes under an act entitled "An act to establish a tax on collateral inheritances, bequests, and devises, to provide for its collection, and to direct the disposition of the proceeds," approved March 23, 1893, and the several acts amendatory thereof; and to authorize the bringing and prosecution of actions against the state, for the purpose of quieting title against claims of liens made by or upon behalf of the state under the said act and the acts amendatory thereof, and to regulate the procedure in such actions.

[Approved March 20, 1905. Stats. 1905, p. 374.]

Citations. Cal. 149/523, 530. App. 6/746, 747.

§ 1. In all cases where any tax has become or shall hereafter become a lien upon any property under or by virtue of any of the provisions of an act entitled "An act to establish a tax on collateral inheritances, bequests and devises, to provide for its collection and to direct the disposition of the proceeds," approved March 23, 1893, and the several acts amendatory thereof, the district attorney of the county in which the estate of the decedent mentioned in said act and the acts amendatory thereof is being administered or has been administered in probate proceedings, may, whenever any property of said estate has been distributed without the payment to the state of all or any part of the taxes payable on account thereof under said act and the acts amendatory thereof, bring and prosecute an action or actions in the name of the state as plaintiff, for the purpose of enforcing such lien or liens against all or any of the property subject thereto. In any such action the owner of any property or of any interest in property against which the lien of any such tax is sought to be enforced, and any predecessor in interest of any such owner whose title or interest was deraigned through any such decedent by will or succession or by decree of distribution of the estate of such decedent, and any lienor or encumbrancer subsequent to the lien of such tax may be made a party defendant. The enumeration in this section of the persons who may be made defendants shall not be deemed to be exclusive, but the joinder or nonjoinder of parties, except

when otherwise herein provided, shall be governed by the rules in equity in similar cases.

§ 2. Actions may be brought against the state for the purpose of quieting the title to any property, against the lien or claim of any tax or taxes under said act of March 23, 1893, and the several acts amendatory thereof, or for the purpose of having it determined that any property is not subject to any lien for taxes under said act and the acts amendatory thereof. In any such action, the plaintiffs may be any administrator or executor of the estate or will of any decedent who has died since the said act of March 23, 1893, went into effect, or who may hereafter die, whether the said estate shall have been fully administered and the estate settled and closed or not, and any heir, legatee or devisee of any such decedent, or trustee of the estate or of any part of the estate of such decedent, or distributee of the estate or of any part of the estate of any such decedent, and any assignee, grantee or successor in interest of any of such persons, and all or any other persons who might be made parties defendant in any action brought under the provisions of section 1 of this act, and notwithstanding that all or any of the persons enumerated in this section shall or may have assigned, granted, conveyed or otherwise parted with all or any interest in or title to the property, or any thereof, involved in any such claim of lien before the commencement of such action. All or any of the persons in this action enumerated may be joined or united as parties plaintiff. The enumeration in this section of the persons who may be made parties shall not be deemed to be exclusive, but the joinder or nonjoinder of parties, except when otherwise herein provided, shall be governed by the rules in equity in similar cases. In all cases any person who might properly be a party plaintiff in any such action who refuses to join as plaintiff may be made a defendant.

§ 3. All actions under sections 1 and 2 of this act shall be commenced in the superior court of the county in which is situated any part of any real property against which any lien is sought to be enforced, or to which title is sought to be quieted against any lien, or claim of lien; but if in said action no lien against real property is sought to be enforced, the action shall be brought in the superior court of the county which has or which had jurisdiction of the administration of the estate of the decedent mentioned in said sections 1 and 2.

§ 4. Service of summons in the actions mentioned in section 2 hereof shall be made on the secretary of state and on the district attorney of the county in which the estate of the decedent mentioned in said section is being administered, or has been administered in probate proceedings, and it shall be the duty of said district attorney to defend all such actions.

§ 5. The procedure and practice in all actions brought under this act, except as otherwise provided in this act, shall be governed by the provisions of the Code of Civil Procedure in relation to civil actions. so far

as the same shall or may be applicable, including all provisions relating to motions for new trials and appeals.

§ 6. The remedies provided in this act shall be in addition to and not exclusive of any remedies provided in the said act of March 23, 1893, and the several acts amendatory thereof.

ACT 4037.

An act authorizing the governor to appoint an expert in taxation and public finance, to sit as a member of a commission to be composed of himself and a general committee of the senate and assembly of the thirty-sixth session of the legislature of the state of California, of which commission the governor shall be ex officio a member and chairman, to investigate the system of revenue and taxation in force in this state, and to recommend a plan for the revision and reform thereof; to provide for the creation of said commission, and to define its powers, and making an appropriation therefor.

[Approved March 20, 1905. Stats. 1905, p. 390.]

See 1907, p. 245.

ACT 4037a.

An act to provide for the appointment of a commission to carry out the work mentioned and provided for in an act entitled, "An act authorizing the governor to appoint an expert in taxation and public finance, to sit as a member of a commission to be composed of himself and a general committee of the senate and assembly of the thirty-sixth session of the legislature of the state of California, of which commission the governor shall be ex officio a member and chairman, to investigate the system of revenue and taxation in force in this state, and to recommend a plan for the revision and reform thereof; to provide for the creation of said commission, and to define its powers and making an appropriation therefor," approved March 20, 1905, and making an appropriation therefor. [Approved March 25, 1909. Stats. 1909, p. 779.]

ACT 4038.

Imposing a tax on the issue of certificates of stock corporations. [Stats. 1877-78, p. 955.]

Repealed 1897, p. 248.

ACT 4039.

Solvent debts, other than those secured by mortgage or other lien, taxation of. [Stats. 1873-74, p. 753.]

Repealed 1875-76, p. 772, c. DVIII, amending codes.

ACT 4040.

An act to establish a tax on collateral inheritances, bequests, and devises, to provide for its collection, and to direct the disposition of the proceeds. [Approved March 23, 1893. Stats. 1893, p. 193.]

Amended 1895, p. 38; 1897, p. 77; 1899, p. 101; 1908, pp. 55, 268.

Repealed 1905, p. 341.

See ante, Acts 4085 and 4086.

Citations. Cal. 117/283; 126/114, 115, 116, 117, 119, 120, 121; 139/538, 534, 538, 540, 541, 542; 140/468; 143/626; 145/49, 50, 51, 52; 149/528, 524, 525, 526, 527, 529; 153/226, 227, 228. App. 6/745, 746; 8/183.

"Repealed 1905, p. 350. See 1905, pp. 841, 874. Section 20 of the act, though not wholly repealed by them, was so far modified by the County Government Acts of 1892 (1893, p. 513, § 236), and 1897 (1897, p. 557, § 282) that the commissions cannot be received by the county treasurer individually to his own use, but must be paid into the county treasury (County of San Diego v. Schwartz, 149 Cal. 49). The amendment of 1897 was in part unconstitutional (Estate of Mahoney, 138 Cal. 180; Estate of Stanford, 126 Cal. 112). See the Estate of Johnson, 139 Cal. 582. See, also, Trippett v. State of California, 149 Cal. 521."—Code Commissioners' Note.

ACT 4041.

An act empowering boards of supervisors of any of the several counties of the state of California to levy a special tax for the purpose of displaying the products and industries of any county in the state at domestic or foreign expositions, for the purpose of encouraging immigration and increasing trade in the products of the state.

[Approved March 23, 1901. Stats. 1901, p. 589.]

§ 1. The boards of supervisors of the several counties within the state of California, or any of them, are hereby authorized and empowered to levy a special tax on the taxable property within their respective counties, for the purpose of creating a fund not exceeding ten thousand dollars in any one year in any one county, to be used for collecting, preparing, and maintaining an exhibition of the products and industries of the county at any domestic or foreign exposition, for the purpose of encouraging immigration and increasing trade in the products of the state of California; provided, the total tax levies for such purposes in any one year shall not exceed two cents on each one hundred dollars of taxable property in the county, according to the assessment-roll.

ACT 4042.

An act providing for the levy of a special tax for specific public improvements within municipalities.

[Became a law under constitutional provision without governor's approval, March 15, 1901. Stats. 1901, p. 296.]

§ 1. Whenever it shall be determined by the legislative body of any municipality within the state of California that the public interest of such municipality demands the acquisition, construction or completion of any municipal improvement, including bridges, waterworks, water rights, sewers, light or power works or plants, buildings for municipal uses, fire apparatus and street work, or other works, property or structures necessary or convenient to carry out the objects, purposes and powers of the municipality, the cost of which will be too great to be paid out of the revenues of the municipality to be received during the fiscal year, or

years, in which such improvement is proposed to be made, a special tax, not to exceed the sum of fifty cents on each one hundred dollars, may be levied on the property assessed for purposes of taxation within said municipality, which said rate of taxation may be in addition to the annual rate of taxation allowed by law to be levied therein.

§2. Before said tax shall be levied by the legislative body of a municipality, the question of the levy of such tax shall be submitted to the voters of the municipality at any general or special municipal election, or at a special election to be held for that purpose, and if two-thirds of the votes cast upon the proposition of levying such tax shall be in favor of the levy thereof, then the levy shall be made; otherwise, the tax shall not be levied. Upon the ballots used at such election, the proposition to be voted for shall be stated in appropriate words and the same arranged so that the voter may indicate his choice upon the proposition. If a special election is held, the same shall be held and conducted as are other elections within the municipality.

§3. At least two weeks before such election is held the legislative body of the municipality shall adopt an ordinance calling and providing for the same, wherein it shall be stated:

1. The nature of the proposed improvement for the cost of which the special tax shall be levied;
2. The total amount of money to be raised for such improvement;
3. The annual rate of taxation to be levied.

§4. At the time fixed by law for the levying of taxes within the municipality, the legislative body thereof shall include the special tax herein provided for, which shall be the rate specified in the ordinance calling said election, nor shall it be levied for a longer period of years than shall be sufficient to raise the amount of money specified in said ordinance. The proceeds of said special tax shall be set apart in a special fund and shall only be expended for the purposes of making the improvement stated in said ordinance; provided, that any balance remaining after said improvement shall have been fully completed and paid for may be transferred to the general fund of the municipality.

§5. This act shall not be deemed to repeal, conflict with or modify any provision of any statute of this state concerning the incurring of a bonded indebtedness of municipalities for public improvements.

§6. This act shall take effect immediately.

ACT 4043.

An act to provide for the levy and collection of taxes by and for the use of municipal corporations and cities incorporated under the laws of the state of California, except municipal corporations of the first class, and to provide for the consolidation and abolition of certain municipal offices, and to provide that their duties may be performed by certain officers of the county, and fixing the compensation to be

allowed for such county officers for the services so rendered to such municipal corporations.

[Approved March 27, 1895. Stats. 1895, p. 219.]

Amended 1905, p. 429.

§ 1. The board of trustees, common council, or other legislative body of any municipal corporation or city in this state, except municipal corporations of the first class, shall have power, and it shall be their duty to fix by ordinance the amount of money necessary to be raised by taxation upon the taxable property therein, as a revenue to carry on the various departments of such municipal corporation or city for the current year, not to exceed the limit fixed by law, and to pay the bonded or other indebtedness of such municipal corporation or city. The board of trustees, common council, or other legislative body, shall meet for such purpose, and shall so ascertain and fix said amount, on the first Monday in August of each year; provided, however, that the provisions of this act shall not apply to or be in force in any city or municipal corporation until its board of trustees, common council, or other legislative body, shall have passed an ordinance, electing to avail itself of the provisions of this act, and filed a certified copy of the same with the auditor of the county in which such municipal corporation or city is situated, on or before the first Monday in February of each year; and thereafter all assessments shall be made and taxes collected by the assessor and tax collector of such county until such city or municipal corporation shall, by ordinance, elect not to avail itself of the provisions of this act for any longer time.

§ 2. The board of trustees, common council, or other legislative body of any municipal corporation or city in this state, except municipal corporations of the first class, shall have power to elect that the duties of the city treasurer of such city or municipal corporation shall be performed by the county treasurer of the county in which such city or municipal corporation is situated; and whenever such board of trustees, common council, or other legislative body shall, by ordinance, so determine, such duties shall be performed by the treasurer of the county in which such city or municipal corporation is situated. A certified copy of such ordinance shall be served on the tax collector and treasurer of such county, and such ordinance shall also prescribe the manner in which money shall be drawn out of the various funds belonging to such city or municipal corporation in the hands of the treasurer.

§ 3. The county auditor must, on or before the second Monday in August of each year, transmit to the board of trustees, common council, or other legislative body of such municipal corporation or city within such county, a statement in writing, showing the total value of all property within each municipal corporation or city, respectively, which value shall be ascertained from the assessment-books of such county for such year, as equalized and corrected by the board of supervisors of such county.

§ 4. Each board of trustees, common council, or other legislative body of such municipal corporation or city shall, on the first Monday in September, fix the rate of taxes, designated in the number of cents upon each hundred dollars, using as a basis the value of the property as assessed by the county assessor, and so returned to such board by the county auditor as required by section 2 of this act, which rate of taxation shall be sufficient to raise the amount so fixed by such board, as required in section 1 of this act, which acts by said board are declared to be a valid assessment of such property and a valid levy of such rates so fixed. Such municipal or city board must immediately thereafter transmit to the county auditor of the county in which such municipal corporation or city is situated a statement of such rate so fixed by such municipal board.

§ 5. The auditor must then compute and enter in a separate column in the assessment-book, to be headed "City Tax, City of—" (naming it), the respective sums in dollars and cents to be paid as a municipal or city tax on the property therein enumerated and assessed as being in any municipal corporation or city, using the rate of levy so fixed by such municipal board, and the assessed value as found in such assessment-book. Such taxes so levied shall be collected at the same time and in the same manner as state and county taxes; and when collected the net amount as ascertained by sections 6 and 7 of this act shall be paid to the treasurer of the municipal corporation or city to which it respectively belongs; under the general requirements and penalties provided by law for the settlement of other taxes; provided, however, that when such city has by ordinance, a certified copy of which has been served upon the tax collector of such county, elected to avail itself of the provisions of section 2 of this act, then such tax-collector shall pay the money belonging to such city or municipal corporation over to the treasurer of the county in which such city or municipal corporation is situated.

§ 6. The county auditor and county tax collector shall file with the board of supervisors itemized statements showing the additional expense to their offices of assessing and collecting these local taxes, and upon the filing of such statements the board of supervisors shall, by an order spread upon the minutes, deduct such expenses from the taxes of such municipal corporation or city, while in the hands of the county tax collector, and transfer the same into the county salary fund; provided, that not more than one per cent shall be charged for collecting the first twenty-five thousand dollars so collected, and one-fourth of one per cent for all sums over that amount. [Amended 1905, p. 429.]

§ 7. Whenever the board of trustees, common council, or other legislative body of any municipal corporation or city in this state has elected to avail itself of the provisions of section 2 of this act, the board of supervisors of such county shall also reserve as and for the expenses of the county treasurer, incurred by reason of the imposing of these duties upon him, the sum of one-fourth of one per cent, which sum shall

be deducted from the money collected by the county tax collector, and covered in to the county treasurer into the county salary fund.

§ 8. Whenever the board of trustees, common council, or other legislative body of any municipal corporation or city in this state shall have availed itself of the provisions of this act, all duties, other than the assessing of the property of such city or municipal corporation, belonging to the office of the city assessor shall be transferred to and performed by the clerk of such city or municipal corporation; and all duties, other than the collection of taxes, belonging to the office of city tax collector shall be transferred to and be performed by the city marshal or chief of police of such city or municipal corporation, and thereafter the office of city assessor, and city tax collector, and city treasurer may be by ordinance abolished.

§ 9. Whenever any real property situate in any city or municipal corporation which has availed itself of the provisions of this act has been sold for taxes and has been redeemed, the money paid for such redemption shall be apportioned by the county treasurer to such city or municipal corporation in the proportion which the tax due to such city or municipal corporation bears to the total tax for which such real property was sold.

§ 10. All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

§ 11. This act shall take effect immediately.

ACT 4044.

An act to provide for the levy and collection of taxes by and for the use of municipal corporations and cities incorporated under the laws of the state, excepting municipal corporations of the first, second, third, and fourth classes, and cities operating under a charter framed under section 8, Article XI, of the constitution.

[Approved March 2, 1891. Stats. 1891, p. 22.]

Citations. Cal. 108/664.

§ 1. The board of trustees, common council, or other legislative body of any municipal corporation, or city in this state, excepting municipal corporations of the first, second, third, and fourth classes, and cities operating under a charter framed under section 8, Article XI, of the constitution, shall have power, and it shall be their duty to fix, by ordinance, the amount of money necessary to be raised by taxation upon the taxable property therein, as a revenue to carry on the various departments of such corporation or city for the current year, not to exceed the limit fixed by law, and to pay the bonded or other indebtedness of such municipal corporation or city. The board of trustees, common council, or other legislative body shall meet for such purpose, and shall so ascertain and fix said amount, on the first Monday in August of each

year; provided, however, that the provisions of this act shall not apply to or be in force in any city or municipal corporation until its board of trustees, common council, or other legislative body shall have passed an ordinance electing to avail itself of the provisions of this act, and filed a certified copy of the same with the auditor of the county in which such municipal corporation or city is situated, on or before the first Monday in March of each year.

§ 2. The county auditor must, on or before the third Monday in August of each year, transmit to the board of trustees, common council, or other legislative body of each municipal corporation or city within such county a statement, in writing, showing the total value of all property within each municipal corporation or city, respectively, which value shall be ascertained from the assessment-book of such county for such year, as equalized and corrected by the board of supervisors for such county.

§ 3. Each board of trustees, common council, or other legislative body of such municipal corporation or city shall, on the first Monday of October, fix the rate of taxes, designating the number of cents upon each hundred dollars, using as a basis the value of property as assessed by the county assessor and so returned to such board by the county auditor, as required in section 2 of this act, which rate of taxation shall be sufficient to raise the amount so fixed by such board, as required in section 1 of this act, which acts by said board are declared to be a valid assessment of such property and a valid levy of such rates so fixed. Such municipal or city board must immediately thereafter transmit to the county auditor of the county in which such municipal corporation or city is situated a statement of such rate so fixed by such municipal board.

§ 4. The auditor must then compute and enter in a separate column in the assessment-book, to be headed "City Tax, City of —" (naming it), the respective sums, in dollars and cents, to be paid as a municipal or city tax on the property therein enumerated and assessed as being in any municipal corporation or city, using the rate or levy so fixed by such municipal board and the assessed value as found in such assessment-book; such taxes so levied shall be collected at the same time and in the same manner as state and county taxes; and when collected the net amount as ascertained by section 5 shall be paid to the treasurer of the municipal corporation or city to which it respectively belongs, under the general requirements and penalties provided by law for the settlement of other taxes.

§ 5. The board of supervisors, on the filing of itemized statements by the county auditor and county tax collector showing the additional expense to their offices of assessing and collecting these local taxes, may, by an order spread upon its minutes, deduct such expenses from the taxes of each municipal corporation or city, while in the hands of the county tax collector, and cover the same into the county salary fund.

§ 6. All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

ACT 4045.

An act in relation to reassessment of property, the equalization of the same, and the collection of taxes thereon, in cases where a former assessment made since eighteen hundred and seventy-nine is illegal or invalid, or where the proceedings for the collection of such taxes have been ineffectual by reason of error, irregularity, or invalidity, and such taxes have not been paid.

[Approved March 23, 1893. Stats. 1893, p. 290.]

Citations. Cal. 117/440; 124/500, 501; 125/498; 147/564; 150/640.

§ 1. Every assessment of property made after the year one thousand eight hundred and seventy-nine which is invalid, or may hereafter be adjudged to be, by reason of any illegality, invalidity, or irregularity declared or existing, in the assessment of such property, or in the mode provided for the assessment thereof, shall be remade, and the property reassessed and equalized for each year for which such assessment is invalid as aforesaid, and for the year for which the assessment of such property was invalid as aforesaid, and such reassessment and equalization shall be made by the same officers and boards at the same time or times, as are now prescribed by law for the assessment and equalization of property, of the same classes or kinds as the property which hereby is required to be reassessed. The assessment and equalized assessment of such property shall be entered on the several assessment-rolls or books in the same manner that assessments of such property are or were required by law to be entered for the year or years during which such reassessments shall be made. And there is hereby levied for state purposes the same rates of taxation for each of such respective years as were heretofore levied upon such property for each of said years for said state purposes.

§ 2. All taxes for counties, cities and counties, and other taxing districts, shall be levied by the proper board or boards upon the property mentioned in the first section of this act, at the same rates for each respective year as were levied upon property for each of said years after the year eighteen hundred and seventy-nine.

§ 3. All property authorized to be reassessed by this act shall be reassessed and equalized by the proper officers and boards at the value to which and to the person or corporation to whom or to which such property ought, for each of such years, to have been assessed, under such rules of notice and at the times and in the modes as are prescribed for the assessment and equalization of like classes of property; and the assessment and equalization thereof, and the levy and collection of taxes thereunder, shall be made by the proper officers at the time, upon like notice and in the manner now or hereafter provided by law for making assessments and equalizing the same and for the levy

and collection of taxes on like classes of property; and if the taxes so relieved shall become delinquent, there shall be added thereto and the amount thereof the same percentage as a penalty for such delinquency, as is added to other delinquent taxes on like classes of property, and such delinquent taxes and penalties added thereto shall be collected by the proper officers in the manner now or hereafter provided by law for the collection of delinquent taxes and penalties upon like classes of property; the collectors of such taxes to allow as credits thereon all payments heretofore made on the tax as first levied.

§ 4. There shall be no limitation or limitations as to the time in which actions for the collections of taxes levied under this act may be commenced, and all the provisions of law now or hereafter provided in respect to the assessments, equalization, levy, and collection of taxes shall, where applicable, apply to reassessments, equalization, and relieves and collections of taxes made under the provisions of this act.

§ 5. This act shall apply to taxes for revenue only, and not to assessments for local improvements or street purposes.

§ 6. This act shall take effect and be in force on and after its passage.

ACT 4046.

An act authorizing the payment of compensation or commission to persons employed by the state controller and attorney general or by boards of supervisors of the different counties, to collect delinquent state and county taxes, and legalizing all payments made for that purpose.

[Approved March 26, 1895. Stats. 1895, p. 94.]

§ 1. That all sums heretofore paid by the state to any person for compensation or commission to persons for collecting delinquent state and county taxes in pursuance of an agreement by such persons with the state controller and attorney general for such collections, and all sums heretofore paid by any board of supervisors out of the county treasury as compensation or commissions for collecting such delinquent taxes in pursuance of an agreement by such persons with such boards of supervisors, are hereby approved and legalized.

§ 2. This act shall take effect and be in force from and after its passage.

ACT 4047.

To abolish commissions or fees paid by the state for the assessment, equalization, auditing, and collection of ad valorem taxes. [Approved February 23, 1893. Stats. 1893, p. 5.]
Citations. Cal. 182/267.

ACT 4048.

To abolish commissions or fees paid by the state for the assessment, equalization, auditing, and collection of ad valorem taxes. [Approved March 14, 1899. Stats. 1899, p. 102.]

ACT 4049.

To prevent the maintenance against the state or any officer thereof by any county or county officer, of any action or proceeding for the collection or recovery of any money alleged to be due such county or any officer thereof for services rendered in the assessment, equalization, auditing, and collection of ad valorem taxes. [Approved February 16, 1899. Stats. 1899, p. 9.]

Citations. Cal. 182/277.

ACT 4050.

Prohibiting the payment of money by the state to counties and cities and counties for the collection of taxes. [Approved March 4, 1899. Stats. 1899, p. 56.]

ACT 4051.

An act to repeal an act of the legislature of the state of California entitled "An act in relation to the assessment and collection of taxes upon personal property in the city and county of San Francisco," approved March 18, 1874, and requiring all counties and cities and counties of this state to conform to the requirements of the provisions of the Political Code in relation to the assessment, equalization, levy, and collection of taxes for revenue purposes.

[Approved March 28, 1895. Stats. 1895, p. 308.]

§1. An act entitled "An act in relation to the assessment and collection of taxes upon personal property in the city and county of San Francisco," approved March eighteenth, eighteen hundred and seventy-four, is hereby repealed.

§2. All counties and cities and counties of this state are hereby required to conform to the provisions of the Political Code in relation to the assessment, equalization, levy and collection of taxes on real and personal property for revenue purposes, and all laws now in force in relation to revenue are hereby made applicable to all such counties and cities and counties.

§3. All acts and parts of acts in conflict with this act are hereby repealed.

§4. This act shall take effect immediately.

The act of 1878-74, was declared unconstitutional in *People v. Pittsburg R. R. Co.*, 67 Cal. 625.

ACT 4052.

An act concerning the assessment of animals.

[Approved March 30, 1872. Stats. 1871-72, p. 754.]

This act was not repealed by provisions of Political Code respecting assessment of personal property: *Rosasco v. Tuolumne Co.*, 148 Cal. 430.

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Attempted to be modified by 1878-74, p. 376, which was, however, declared unconstitutional in *People v. Townsend*, 56 Cal. 624. The decision seems applicable to both statutes.

Citations. Cal. 143/432.

Assessment of animals temporarily pasturing in any county.

§ 1. Whenever any person residing in any county of the state, and owning any neat cattle, horses, mules, sheep, or goats therein, shall drive the same from the county where he resides into any other county, for the purpose of temporarily pasturing the same, all such animals shall be assessed in and for the county where such owner resides, although the said animals shall not be at the time of said assessment in said county in which he may so permanently reside; and such owner shall include such animals in his assessment list, and the assessor of the county where such stock are so temporarily grazed shall list the same, with a full description of each kind and the number of the same; and for the purpose of making such list, the assessor shall have power, and it is hereby made his duty, to examine on oath the person or persons owning or having charge of such cattle, horses, mules, sheep, or goats, touching their number, ownership, and to whom and in what county, if any, they have been assessed for taxation. The list made out as aforesaid by the assessor, together with a full statement of the same, shall be signed and sworn to by the person or persons owning or having in charge such stock.

Duties of assessors and treasurers.

§ 2. The assessor shall file a copy of said list of such stock with the county treasurer of his county, and another copy with the treasurer of the county in which the said stock was first listed and assessed for taxation. Upon filing the lists aforesaid, with the sworn statement therein that the stock specified in said lists has been pastured or used in the county mentioned therein during the grazing season, with the treasurer of the county in which it was assessed for taxation, said treasurer shall pay, on the order of the treasurer of the county in which the stock was so pastured or used, one-half of the amount of taxes paid in on the said stock, less the cost of collection.

§ 3. All acts or parts of acts in conflict with this act, so far as they are in conflict with this act, are hereby repealed.

§ 4. This act shall take effect from and after its passage.

ACT 4053.

To regulate the assessment of migratory herds or bands of livestock, and to provide for an equitable distribution of the taxes derived therefrom. [Approved March 16, 1874. Stats. 1873-74, p. 376.]

Supplemented 1875-76, p. 797. Unconstitutional: *People v. Townsend*, 56 Cal. 633.

ACT 4054.

In relation to moneys belonging to the state derived from taxes assessed on mortgages. [Approved March 30, 1872. Stats. 1871-72, p. 762.]

Not in force. It related to moneys received as taxes on notes secured by mortgage in the years 1870 and 1871.

ACT 4055.

Tax sales, legalizing certain notices of. [Stats. 1873-74, p. 140.]

This act validated the proceedings of tax collectors in 1874.

ACT 4056.

Relief of taxpayers whose lands have been sold to the state. [Stats. 1875-76, p. 687.]

This act applied to lands sold for the years 1874 and 1875, and gave one year to redeem.

ACT 4057.

For the relief of taxpayers whose lands have been sold to the state. [Stats. 1877-78, p. 951.]

"Probably superseded by 1880, p. 9, c. XI, and by Political Code, § 3780, as amended 1895, p. 828."—Code Commissioners' Note.

This act gave taxpayers the right of redemption.

ACT 4058.

Granting relief to taxpayers whose lands have been sold to the state. [Stats. 1880, p. 9.]

Probably superseded by Political Code, § 3780, as amended 1895.

This act gave a right of redemption.

ACT 4059.

An act to confirm, validate and legalize certificates of tax sales and tax deeds executed to the state of California for property sold and deeded thereto for nonpayment of taxes.

[Approved February 28, 1903. Stats. 1903, p. 63.]

Citations. Cal. 150/565, 566, 621; 151/286, 287, 289; 154/745. App. 6/262, 263, 264.

§ 1. That all certificates of tax sales and tax deeds made to this state by the county tax collector, which certificates and deeds are based upon the sale of property for nonpayment of taxes, and which certificates and deeds fail to recite the correct date, or any date, when the right of redemption will expire, or had expired, or which certificates recite an incorrect date when the state would be entitled to a deed, be and they are hereby confirmed, validated, and legalized, and the same shall be construed and operate at all times and upon all occasions in law in the same manner as if such matters and things required by law had been recited therein and performed in the first instance; provided, that in all cases five years shall have elapsed between the date of sale of the property to the state for nonpayment of taxes and the date of the execution of such deed.

§ 2. This act shall take effect immediately.

ACT 4060.

An act authorizing and providing for suits for the collection of delinquent taxes due upon personal property.

[Approved March 13, 1903. Stats. 1903, p. 130.]

§ 1. Each county and city and county may sue in its own name for the recovery of any and all moneys due or hereafter to become due as delinquent taxes upon any and all personal property, where no real property is assessed as security for the payment of such personal property taxes, or where, in the judgment of the board of supervisors, there is not sufficient real property assessed to secure the payment of such personal property taxes, whether the same be for county or city and county, and state purposes, or either of them, and for all penalties due upon said taxes for nonpayment thereof.

§ 2. On the trial of any such suit the assessment-roll of said county or city and county, or a copy of any entry therein duly certified, showing unpaid taxes against the defendant, or, in cases where the defendant is sued in a representative capacity, against any person or estate he represents, shall be prima facie evidence of the plaintiff's right to recover.

§ 3. All actions now pending for the collection of such taxes may be carried on and prosecuted under the provisions and in accordance with this act.

§ 4. All acts and parts of acts in conflict with this act are hereby repealed, but the method of collecting such taxes herein provided shall not be deemed to be the exclusive method, nor shall the provisions of this act in any manner abrogate or modify the provisions of sections 3831 or 3899 of the Political Code of the state of California.

§ 5. This act shall take effect and be in force immediately from and after its passage.

ACT 4061.

An act prescribing the form of complaint in actions to recover delinquent taxes, and to authorize the bringing of suits therefor.

[Approved April 23, 1880. Stats. 1880, p. 136 (Ban. ed. 402).]

Repealed in part by Political Code, § 8670, as amended 1888, p. 65. (San Diego v. Southern Pacific R. Co., 108 Cal. 46.) On the point as to whether this act is still in force, see San Bernardino Co. v. Southern Pac. R. R. Co., 70 Pac. 782.

Citations. Cal. 61/258, 254, 256, 257, 258; 69/648; 78/612; 75/178; 91/484; 99/595, 599; 108/48; 137/661; 144/361; 145/60; 153/620, 621. App. 4/46, 47.

Form of complaint in action for delinquent taxes.

§ 1. In any action that may be hereafter commenced in any county, or city and county, in this state, for the collection of delinquent taxes

for any fiscal year, the complaint may be in the following form, and shall be legally sufficient, and on the trial thereof the duplicate assessment-roll for any said fiscal year, of said county, or city or county, or a copy of any entry therein duly certified, showing unpaid taxes against the defendant, or in cases where the defendant is sued in a representative capacity against any person or estate he represents, shall be prima facie evidence of the plaintiff's right to recover:

(Title of court.) (Name of plaintiff) vs. (name of defendant.) Plaintiff avers that defendant is indebted to plaintiff in the sum of \$—— (naming the amount for county, or city and county), taxes, with five per cent penalty added thereto for the nonpayment thereof, and interest thereon at the rate of two per cent per month from the (date), and fifty cents costs of advertising. Plaintiff further avers that defendant is indebted to plaintiff in the further sum of \$—— (naming amount), for state taxes, with five per cent penalty added thereto for the nonpayment thereof, and interest thereon at the rate of two per cent per month from (date), and fifty cents costs of advertising, which said taxes were duly assessed and levied upon (the real or personal) property of said defendant, to wit: (describe property as assessed), for the fiscal year (naming the year). Wherefore, plaintiff prays judgment against said defendant, for said several sums, with interest and penalty as aforesaid, and costs of suit. (Signature of attorney.)

And in any case where the defendant is sued in a representative capacity, such other further or additional allegations as may be necessary to charge him in such capacity; and it is further provided, that any county, or city and county, where such taxes are delinquent, may sue in its own name for the recovery of delinquent taxes, whether the same be for county, or city and county, and state purposes, or taxes, or either of them.

§2. This act shall take effect and be in force from and after its passage.

ACT 4062.

To protect the county treasuries of certain counties. [Approved March 16, 1874. Stats. 1873-74, p. 393.]

This act provides that the assessors of Siskiyou, Calaveras, Amador, and Alpine counties should pay the salaries of deputies employed by them. It was probably repealed by the County Government Act.

ACT 4063.

Firemen in certain counties, to be exempt from payment of poll tax. [Stats. 1873-4, p. 731.]

Repealed 1875-76, p. 287.

This act exempted the firemen of the counties of Nevada, Placer, El Dorado, Alameda, and Siskiyou.

ACT 4064.

An act to legalize, confirm, and validate tax deeds made to the state of California for delinquent taxes, and deeds made to purchasers of property sold under and in pursuance of the provisions of sections 3897 and 3898 of the Political Code. [Approved April 15, 1909. Stats. 1909, p. 920.]

TITLE 515.**TEHAMA COUNTY.****ACT 4068.**

To protect agriculture and prevent trespassing of animals in. [Stats. 1873-74, p. 858.]

Amended 1875-76, p. 648.

"Modified and probably repealed by 1877-78, p. 176, c. OXXXVI, and 1897, p. 198. See the estray law of 1901, p. 603."—Code Commissioners' Note.

ACT 4069.

Relating to salary and duties of assessor of. [Stats. 1871-72, p. 756.]

Repealed by County Government Act, 1897, p. 452.

ACT 4070.

Canal companies in, authorizing incorporation of. [Stats. 1871-72, p. 732.]

Supplementing act of April 2, 1870.

ACT 4071.

Cemeteries in, supporting. [Stats. 1871-72, p. 872.]

ACT 4072.

Relating to certain officers of. [Stats. 1871-82, p. 755.]

Repealed by County Government Act, 1897, p. 552, § 198.

This act fixed the salary of the district attorney and permitted the county clerk to hire a deputy.

ACT 4073.

Refunding debt of. [Stats. 1875-76, p. 69.]

ACT 4074.

Partition fences in. [Stats. 1875-76, p. 207.]

ACT 4075.

Authorizing transcribing records of Tehama County from the records of Colusa, Shasta, and Butte counties. [Stats. 1859, p. 151.]

ACT 4076.

Road poll tax. [Stats. 1873-74, p. 431.]

As to assessors retaining fees, repealed by County Government Acts: See 1897, p. 552, § 193.

ACT 4077.

Road poll tax and hospital poll tax. [Stats. 1877-78, p. 211.]

Repealed as to poll-tax by Political Code, § 2652, and by the provisions of the various County Government Acts.

ACT 4078.

Redistricting and reorganizing board of supervisors. [Stats. 1873-74, p. 816.]

Superseded by County Government Acts: See 1897, p. 452.

ACT 4079.

Making treasurer of ex officio tax collector. [Stats. 1873-74, p. 796.]

Amended 1875-76, p. 232. Repealed by County Government Acts: See 1897, p. 452.

TITLE 516.**TEHAMA, TOWN OF.****ACT 4084.**

To prevent hogs from running at large in. [Stats. 1873-74, p. 776.]

Repealed 1877-78, p. 79.

TITLE 517.**TELEGRAPH LINES.****ACT 4089.**

Concerning telegraphic messages and to secure secrecy and fidelity in the transmission thereof. [Stats. 1861, p. 380.]

Superseded by statute of 1862, p. 288.

ACT 4090.

For regulating telegraphs and to secure secrecy and fidelity in the transmission of telegraphic messages. [Stats. 1862, p. 288.]

Amended 1863-64, p. 282.

"As to Penal provisions, superseded by Penal Code (see §§ 619-621, 680; Civil Code, § 1017); but section 17, relating to contracts and communications, probably remains in force."—Code Commissioners' Note.

ACT 4091.

Providing for the construction of a telegraph line between the Atlantic and the Pacific. [Stats. 1865-66, p. 102.]

ACT 4092.

Providing for the construction of a telegraph line from San Jose to San Bernardino. [Stats. 1865-66, p. 308.]

Amended 1867-68, p. 530.

ACT 4093.

Authorizing telegraph between Los Angeles and Wilmington. [Stats. 1871-72, p. 87.]

ACT 4094.

Telegraphic communication between America and Asia, act to facilitate. [Stats. 1871-72, p. 97.]

TITLE 518.
TENEMENT HOUSES.

ACT 4097.

An act to regulate the building and occupancy of tenement houses in incorporated towns, incorporated cities and cities and counties, and to provide penalties for the violation thereof.

[Approved April 16, 1909. Stats. 1909, p. 948.]

Tenement house act.

§ 1. This act shall be known as the tenement house act, and its provisions shall apply to all incorporated towns, incorporated cities, cities and counties in the state of California.

Definition of phrases.

§ 2. For the purpose of this act certain words and phrases are defined as follows:

A tenement house is any house or building, or portion thereof, which is rented, leased, let or hired out, to be occupied or is occupied as the home or residence of three families or more living independently of each other, and doing their cooking upon the premises, or by more than two families upon any floor so living and cooking, but having a common right in the halls, stairways, yards, water-closets or privies or some or any of them.

An apartment in a tenement house is a room or suite of rooms which is occupied, or is intended or designed to be occupied as a family domicile.

A yard is an open, unoccupied space on the same lot with a tenement house, between the extreme rear line of the house and the rear line of the lot.

A court is an open, unoccupied space, other than a yard, on the same lot with a tenement house. A court not extending to the street or yard is an inner court. A court extending to the street or yard is an outer court. If it extends to the street it is a street court. If it extends to the yard it is a yard court. If it extends from the street to the yard it is a street-to-yard court. A court bounded on one side and both ends by a tenement house and on the remaining side by a lot line is a "lot-line" court.

A shaft includes exterior and interior shafts, whether for air, light, elevator, dumbwaiter, or any other purpose. A vent shaft is one used solely to ventilate or light a water-closet compartment or bathroom.

A public hall is a hall, corridor or passageway not within an apartment.

A stair hall includes the stairs, stair landings and those portions of the public halls through which it is necessary to pass in going between the entrance hall and the roof.

A basement is a story partly below the level of the curb, the ceiling of which is not less than four feet six inches above the curb level.

A cellar is any story partly or wholly below the level of the curb, the ceiling of which is less than four feet six inches above the curb level.

A fireproof tenement house is one the walls of which are constructed of brick, stone, iron or other incombustible material, and in which there are no wood beams or lintels and in which the floors, roofs, stair halls and public halls are built entirely of brick, stone, iron, or other hard incombustible material, and in which no woodwork or other inflammable material is used in any of the partitions, furrings or ceilings. But this definition shall not be construed as prohibiting elsewhere than in the stair halls or entrance halls, the use of wooden flooring on top of the fireproof floors or the use of wooden sleepers, nor as prohibiting wooden hand rails, and hardwood treads.

The term curb level wherever used in this act means the level of the curb directly in front of the middle of the street line of the tenement house; where a tenement house is on a corner lot, or on a lot which runs through from one street to another street, and there is more than one grade or level, the lowest level shall be taken.

Buildings converted to tenement uses.

§ 3. A building not erected for use as a tenement house, if hereafter altered or converted to such use, shall thereupon become subject to all of the provisions of this act affecting tenement houses hereafter erected.

Unlawful structure defined.

§ 4. No tenement house shall at any time be altered so as to be in violation of any provision of this act. If any tenement house or any part thereof be occupied by more families than provided by this act, or is erected, altered or occupied contrary to law, such tenement house shall be deemed an unlawful structure, and the department charged with the enforcement of this act may cause such building to be vacated. And such building shall not again be occupied until it or its occupation, as the case may be, has been made to conform to the law.

Fireproof tenement.

§ 5. Every tenement house hereafter erected exceeding six stories or parts of stories in height (above the curb) shall be a fireproof tenement house, nor shall any such tenement house be altered so as to exceed such height without being made fireproof. A cellar is not a story within the meaning of this section, provided that no part of such cellar or basement is occupied or arranged to be occupied for living purposes.

Fire-escapes.

§ 6. Every tenement house that is occupied or is intended to be occupied shall be provided and equipped with stand-pipes and with metallic fire-escapes, combined with suitable metallic balconies, platforms and railings, as provided for, or which shall be provided for by the ordinances of the incorporated town, city, or county in which the tenement house is situated. No encumbrance of any kind shall at any time be placed before, upon or against any stairway, steps or landings or fire-escapes in or upon any tenement house. All fire-escapes upon tenement houses shall be kept in good order and repair, and every exposed part thereof shall at all times be protected against rust by durable paint.

Bulkhead in roof.

§ 7. Every tenement house hereafter erected shall have in the roof a fireproof bulkhead with a fireproof door to the same, and shall have fireproof stairs with a guide or hand rail leading to the roof, except that in tenement houses hereafter erected, which do not exceed four stories and a cellar in height, and which are not also occupied or arranged to be occupied by more than two families on any floor, such bulkheads may be of wood covered with metal on both sides. The stairs leading to such bulkheads shall be constructed as specified in sections 8 and 11 of this act.

Width of stairs.

§ 8. Every tenement house hereafter erected shall have at least one flight of stairs extending from the entrance floor to the roof, and the stairs and public halls therein shall be at least three feet wide in the clear.

Additional stairways in non-fireproof houses.

§ 9. Every non-fireproof tenement house hereafter erected containing over fifty (50) rooms, exclusive of bathrooms, above the entrance story, shall also have an additional flight of stairs for every additional eighty (80) rooms or fraction thereof; if said house contains not more than one hundred (100) rooms above the entrance story, in lieu of an additional stairway, the stairs, stair halls and entrance halls throughout the entire building shall be at least one half wider than is specified in sections 8 and 12 of this act.

Additional stairways in fireproof houses.

§ 10. Every fireproof tenement house hereafter constructed containing over one hundred and twenty (120) rooms above the entrance story, exclusive of bathrooms, shall have an additional flight of stairs for every additional one hundred and twenty (120) rooms or fraction thereof; but if said house contains not more than one hundred and eighty (180) rooms above the entrance story, exclusive of bathrooms, in lieu of an additional stairway, the stairs, stair halls and entrance halls throughout the entire building may each be at least one half wider than is specified in sections 8, 11 and 12 of this act. And if such house contains not more than three hundred (300) rooms above the entrance story, exclusive of bathrooms, in lieu of three stairways there may be but two stairways, provided that one of such stairways and the stair halls and entrance halls connected therewith are at least one half wider than is specified in sections 8, 11 and 12 of this act.

Construction of stairways.

§ 11. Each flight of stairs mentioned in the last three sections shall have an entrance on the entrance floor from the street or street court, or from an inner court which connects directly with the street. All stairs shall be constructed with a rise of not more than eight inches, and with treads not less than nine inches wide, exclusive of nosings. Where

winders are used all treads at a point eighteen inches from the strings on the wall side shall be at least ten inches wide.

Width of entrance halls.

§ 12. Every entrance hall in a tenement house hereafter erected shall be at least three feet six inches in the clear from the entrance up to and including the stair inclosure, and beyond this point at least three feet wide in the clear. In every tenement house hereafter erected, access shall be had from the street to the yard, either in a direct line or through a court.

Closets under stairways.

§ 13. In non-fireproof tenement houses hereafter erected no closet of any kind shall be constructed under any stairway leading from the first story, exclusive of the cellar, to the upper stories, but such space shall be left entirely open and kept clear from encumbrance.

Entrance to cellar.

§ 14. In every tenement house hereafter erected there shall be an entrance to the cellar or other lowest story from the outside of said building.

Wooden buildings not permitted, where.

§ 15. Within the fire limits of any incorporated town, incorporated city or city and county, no wooden building not now used as a tenement house shall be hereafter erected for, altered or converted to such use. But outside of the fire limits tenement houses not exceeding four stories in height, exclusive of the cellar, may be erected of wood.

Increase of height.

§ 16. No wooden tenement house shall be increased in height so as to exceed four stories, exclusive of the cellar.

Keeping of combustibles.

§ 17. No tenement house nor any part thereof, nor of the lot upon which it is situated, shall be used as a place of storage, keeping or handling of any combustible article except under such conditions as may be prescribed by the department of any incorporated town, incorporated city or city and county to which this act applies, which are now charged with the enforcement of laws, ordinances and regulations, relating to the erection of buildings, the protection of public health, and police and fire protection. No tenement house nor any part thereof, nor of the lot upon which it is situated, shall be used as a place of storage, keeping or handling of any article dangerous or detrimental to life or health, nor for the storage, keeping or handling of feed, hay, straw, excelsior, cotton, paper stock, feathers or rags.

Boiling of fat.

§ 18. No bakery and no place of business in which fat is boiled shall be maintained in any tenement house which is not fireproof throughout,

unless the ceilings and side walls of said bakery or place where fat boiling is done are made safe by fireproof materials around the same, and there shall be no openings either by door or window, dumb-waiter shafts or otherwise, between said bakery or said place where fat is boiled in any tenement house and the other parts of said building.

Paints and oils.

§ 19. All transoms and windows opening into halls from any portion of a tenement house where paint, oil, spirituous liquors or drugs are stored for the purpose of sale or otherwise, shall be glazed with wire glass or they shall be removed and closed up as solidly as the rest of the wall. And all doors leading into such hall from such portion shall be made fireproof.

Yard requirements.

§ 20. Behind every tenement house hereafter erected there shall be a yard extending across the entire width of the lot, and except as provided in section 23, at every point open from the ground to the sky unobstructed except that fire-escapes or uninclosed outside stairs may project not over four feet from the rear line of the house. The depth of said yard, measured from the extreme rear wall of the house to the rear line of the lot, shall be as set forth in the following sections:

Same.

§ 21. No tenement house shall hereafter be enlarged or its lot diminished, so that the yard shall be less in depth than the minimum depths prescribed by this act. The measurements in all cases to be taken from the extreme rear wall of the building to the rear line of the lot, and across the full width of the lot, and such yard shall be at every point open from the ground to the sky, except as provided for elsewhere in this act.

Depth of yard.

§ 22. Except upon a corner lot or upon a lot running through from street to street, as provided in sections 23 and 24, the depth of the yard behind every tenement house hereafter erected sixty feet in height shall not be less than twelve feet in every part. Said yard shall be increased in depth one foot for every additional twelve feet of height of the building, or fraction thereof; and may be decreased in depth one foot for every twelve feet of height of the building less than sixty feet; but it shall never be less than ten feet in depth in any part.

Yardway between streets.

§ 23. Whenever a tenement house is hereafter erected upon a lot which runs through from one street to another street, or alley of not less than sixteen (16) feet in width, and said lot is not less than eighty feet nor more than one hundred feet in depth, there shall be a yard space through the center of the lot midway between the two streets, which space shall extend across the full width of the lot and shall never be less than

twelve feet in depth from wall to wall, and shall be increased in depth as prescribed in section 22 of this act. Such yard space may start at the level of the second tier of beams, but never at a point more than fourteen feet above the curb level. Where such lot is over one hundred feet in depth such yard space shall be left through the center of the lot midway between the two streets, and shall extend across the entire width of the lot, and shall not be less than twenty-four feet in depth from wall to wall and shall be increased in depth as prescribed in section 22 of this act. Where such lot is one hundred and fifty feet or more in depth such yard shall be at every point open from the ground to the sky unobstructed, except by fire-escapes and uninclosed outside stairs projecting not more than four feet from the building.

Depth of yard on corner lots.

§ 24. The depth of the yard behind every tenement house hereafter erected upon a corner lot shall be not less than ten feet in every part and at every point open and unobstructed from the ground to the sky, provided that where any such lot is less than one hundred feet in depth, the depth of the yard be not less than ten per centum of the greatest depth of such lot, but shall never be less than five feet in every part, nor less than the minimum width of an outer court on the lot line as prescribed by this act. Where a corner lot is more than fifty feet in width, the yard for that portion in excess of fifty feet shall conform to the provisions of section 22 of this act.

Court to be open to sky.

§ 25. No court of a tenement house hereafter erected shall be covered by a roof or skylight, but every such court shall be at every point open from the ground to the sky unobstructed, except that fire-escapes as required by law or by the ordinances or regulations of incorporated towns, incorporated cities or cities and counties to which this act applies, may project into a court, but no more than four feet from the wall of the house. All courts in tenement houses hereafter erected shall conform to the requirements of the following sections:

Outer courts, widths of.

§ 26. The outer courts of all tenement houses shall have not less than the following minimum widths:

<i>Building.</i>	<i>Least Width.</i>
2 stories	4 feet
3 stories	4 feet 6 inches
4 stories	5 feet
5 stories	6 feet
6 stories	8 feet
7 stories	10 feet
8 stories	12 feet

Inner courts, widths of. Lot line courts.

§ 27. The inner courts of all tenement houses shall have areas and minimum widths in all parts, not less than the widths and areas as follows:

<i>Building.</i>	<i>Square Feet.</i>	<i>Least Width.</i>
2 stories	100	6 feet
3 stories	120	7 feet
4 stories	160	8 feet
5 stories	250	12 feet
6 stories	400	16 feet
7 stories	625	20 feet
8 stories	840	24 feet

Lot line courts shall have areas and minimum widths in all parts not less than one-half of those specified in the above table of inner courts.

Inner court intakes.

§ 28. Every inner court including lot line courts shall be provided with one or more horizontal intakes at the bottom. Such intakes shall always communicate directly with the street or yard, and shall each consist of a passageway not less than three feet wide and six feet six inches high which shall be left open, or if not open there shall always be provided in said passageway open grilles or transoms of a size not less than ten square feet each, and such open grilles or transoms shall never be covered with glass or in any other way. There shall be at least two such grilles or transoms in each passageway, one at the inner court and the other at the street or yard, as the case may be.

Lot space that may be occupied.

§ 29. No tenement house hereafter erected shall occupy more than ninety per centum of a corner lot, or more than seventy per centum of any other lot, except as otherwise provided in this act; provided that the space occupied by fire-escapes erected and constructed according to law, shall not be deemed a part of the lot occupied, but that the space occupied by outside fireproof stairs, by vent shafts thirty-two square feet or less in area, and by recesses for fire-escapes as provided for shall be considered a part of the lot occupied. For the purposes of this section the measurements may be taken at the level of the second tier of beams, but never at a point more than fourteen feet above the curb level.

Corner lot defined.

§ 30. By a corner lot is meant a lot situated at the junction of two streets, or of a street and public alley not less than sixteen feet in width. Any portion of the width of such lot distant more than fifty feet from such junction shall not be regarded as part of a corner lot, but shall be subject to the provisions of this act respecting other than corner lots. Where, in any corner lot, the two frontages are of unequal length, the lesser street frontage shall be taken as the width of the lot. Street frontage alone and not alley frontage shall be considered in determining such lesser frontage.

Minimum distance between buildings.

§ 31. No existing tenement house shall (unless the rear of the lot upon which it stands abuts upon a public alley at least ten feet wide) hereafter be enlarged or its lot be diminished so that any building on such lot shall at any point approach nearer than ten feet to the rear line of the lot. Where a tenement house, now or hereafter erected, stands upon a lot, other, than a corner lot, no other building shall hereafter be placed upon the front or rear of that lot, unless the minimum distance between such buildings be at least ten feet, if neither building exceeds the height of one story; or fifteen feet if either building exceeds the height of one story, but not the height of two stories; and so on, five additional feet to be added to such minimum distance of ten feet for every story more than one in the height of the highest building on such lot. Every rear tenement hereafter erected, or every tenement that hereafter becomes a rear tenement by the erection of a building or buildings on the front of the same lot, shall have direct access to a street or to a public alley at least sixteen feet wide, by a passageway not less than five feet wide by seven feet high.

Measurements may be taken, where.

§ 32. No tenement house shall hereafter be enlarged or its lot diminished, so that a greater percentage of the lot shall be occupied by buildings or structures than provided for in section 29 of this act. For the purposes of this section the measurements may be taken at the level of the second tier of beams but never at a point more than fourteen feet above the curb level; provided that the space occupied by fire-escapes, and by chimneys or flues located in yards and attached to the house, which do not exceed five square feet in area and do not obstruct light or ventilation, shall not be deemed a part of the lot occupied.

Maximum height.

§ 33. The height of no tenement house hereafter erected shall by more than one-half exceed the width of the widest street upon which it stands.

Windows.

§ 34. In every tenement house hereafter erected, every room except water-closet compartments and bathrooms shall have at least one window opening directly upon the street, or upon a yard or court of the dimensions specified in sections 20 to 27 of this act, and such windows shall be so located as to properly light all portions of such rooms.

Window area.

§ 35. In every tenement house hereafter erected, the total window area in each room, except water-closet compartments and bathrooms, shall be at least one-eighth of the superficial area of the room, except in the cellar or basement, where it shall be one-sixth, and the upper half of all windows shall be made so as to open the full width. No such window shall be less than twelve square feet in area between the stop beads.

Rooms, minimum dimensions.

§ 36. In every tenement house hereafter erected, all rooms, except water-closet compartments and bathrooms, shall be of the following dimensions: In each apartment there shall be at least one room containing not less than one hundred and twenty square feet of floor area, and each other room shall contain at least eighty square feet of floor area. Each room shall be in every part not less than eight feet six inches from the finished floor to the finished ceiling; provided, that an attic room need be but eight feet six inches high in but one-half its area.

Alcove rooms.

§ 37. Alcove rooms must conform to all the requirements of other rooms.

Windows in public halls.

§ 38. In every tenement house which is hereafter erected, which is occupied or arranged to be occupied by more than two families on any floor, or which exceeds four stories and cellar in height, every public hall shall have at least one window opening directly upon the street or upon a yard or court, except as otherwise provided in this section. Any part of a hall which is shut off from any other part of said hall by a door or doors, shall be deemed a separate hall within the meaning of this section. In every tenement house hereafter erected where the public hall is not provided with a window opening directly to the outer air as above provided, there shall be a stair-well not less than twelve inches wide extending from the entrance floor to the roof, and all doors leading from such public halls shall be provided with translucent glass panels of an area not less than five square feet for each door, and also with fixed transoms of translucent glass over each door.

Size of windows in public halls.

§ 39. In every tenement house hereafter erected, one at least of the windows provided to light each public hall or part thereof shall be at least two feet six inches wide, measured between stop beads. In every such house there shall be in the roof, directly over each stair-well, a ventilating skylight provided with ridge ventilators having a minimum opening of forty square inches, or such skylight shall be provided with fixed or movable louvres; the glazed roof of such skylight shall be not less than twenty square feet in area. In tenement houses hereafter erected where the stairs and public halls are not provided with windows on each floor opening directly into the outer air, the skylights shall be provided with both such ridged ventilators, and also with fixed or movable louvres, or movable sashes.

Windows in stair halls.

§ 40. In every tenement house hereafter erected, the windows required by law on each floor to light or ventilate stair halls shall be at least fifteen square feet in area, measured between stop beads. There shall be provided at each story at least one of said windows, which shall be at least three feet wide and five feet high, measured between the stop beads.

Sash doors in entrance halls and public halls shall be deemed the equivalent of a window for lighting purposes, provided that such doors contain the amount of glazed surface prescribed for windows.

Access to rooms.

§ 41. In every apartment of three or more rooms in a tenement house hereafter erected, access to every living room and bedroom and to at least one water-closet compartment shall be had without passing through any bedroom.

Additional rooms.

§ 42. Any additional room or hall that is hereafter constructed or created in a tenement house shall comply in all respects with the provisions of Chapter III of this act, except that such rooms may be of the same height as the other rooms on the same story of the house.

Light shafts.

§ 43. Any shaft used or intended to be used to light or ventilate rooms intended to be used for living purposes, and which may hereafter be placed in tenement houses erected prior to May 10, 1909, shall not be less in area than twenty-five square feet, or less than four feet in width in any part, and such shaft shall under no circumstances be roofed or covered over at the top with a roof or skylight; every such shaft shall be provided at the bottom with a horizontal intake or duct, of a size not less than four feet square and communicating directly with the street or yard, and such duct shall be so arranged as to be readily cleaned out.

Vent shafts.

§ 44. Every vent shaft hereafter constructed in a tenement house shall be at least twenty square feet in area, and the least dimension of such vent shaft shall be not less than four feet; and if the building be above sixty feet in height such vent shaft shall, throughout its entire height, be increased in area three square feet for each additional twelve feet of height or fraction thereof; and for each twelve feet of height less than sixty feet such vent shaft may be decreased in area three square feet. A vent shaft may be enclosed on all four sides but shall not be roofed or covered over in any way. Every such vent shaft shall be provided with a horizontal intake or duct at the bottom, communicating with the street or yard or with a court; such duct or intake to be not less than four square feet in total area. Such duct shall be constructed of fireproof material in a manner approved by the department charged with the enforcement of this act, and shall enter the shaft at a point not less than six inches above the bottom thereof, and shall be provided with a wire screen of not less than one inch mesh at each end. Such duct shall be so arranged as to be easily cleaned out.

Cellars for living purposes.

§ 45. In no now existing or new tenement house shall any room in the cellar be constructed, altered, converted or occupied for living purposes; and no room in the basement of a tenement house shall be con-

structed, altered, converted or occupied for living purposes, unless all of the following conditions of this ordinance be complied with, and at least one-third of the basement shall be above grade for building; provided, in each case it shall be at least four feet six inches above the street grade.

Such rooms shall be at least eight feet six inches high in all now existing or new tenement houses in every part, from the floor to the ceiling.

There shall be appurtenant to such room or apartment a water-closet conforming to the regulations and ordinances relating to water-closets, of the incorporated town, incorporated city or city and county in which the tenement house is or is to be built.

Walls below ground to be damp-proof.

§ 46. Every tenement house hereafter erected, shall have all walls below the ground level and all cellar or lower floors damp-proof and water-proof. When necessary to make such floors and walls damp-proof and water-proof, the damp-proofing and water-proofing shall run through the walls as high as the ground level and continue throughout the floor. All cellars and basements in such tenement houses shall be properly lighted and ventilated to the satisfaction of the department charged with the enforcement of this act.

Drainage.

§ 47. In every tenement house hereafter erected the bottom of all shafts, courts, areas, and yards which extend to the basement for light or ventilation of living rooms, must be six inches below the floor level of the part occupied or intended to be occupied. In every tenement house all shafts, courts, areas and yards shall be properly graded and drained, and connected with the street sewer so that all water may pass freely through into it, and when required by the department charged with the enforcement of this act, shall be properly concreted.

Sinks.

§ 48. In every tenement house hereafter erected, there shall be in each apartment a proper sink with running water.

Water-closets and baths.

§ 49. In every tenement house hereafter erected, there shall be a separate water-closet in a separate compartment within each apartment and a shower bath or bath tub shall be provided on each floor. Every water-closet and bathroom hereafter placed in any tenement house shall be placed in a separate compartment from every other water-closet and bath; each compartment shall not be less than two feet four inches wide, and shall be enclosed with plastered partitions, which shall extend to the ceiling. Nothing in this section in regard to the separation of water-closet compartments from each other shall apply to a general toilet-room containing several water-closets hereafter placed in a tenement house, provided such water-closets are supplemental to the water-closet accommodations required by law for the use of the tenants of said house. Nothing in this section in regard to the ventilation of water-closet com-

partments shall apply to a water-closet hereafter placed in a tenement house, where it is provided to replace a defective fixture in the same position and location. No water-closet shall be maintained in the cellar of any tenement house without a special permit in writing from the department charged with the enforcement of this act, which shall have power to make rules and regulations governing the maintenance of such closets. Every water-closet compartment hereafter placed in any tenement house shall be provided with proper means of lighting at night. If fixtures for gas or electricity are not provided in said compartment, then the door of said compartment shall be provided with translucent glass panels not less in area than four square feet. The floor of every such water-closet compartment shall be made water-proof with asphalt, tile, stone, or some other water-proof material; and such water-proofing shall extend at least six inches above the floor so that said floor can be washed or flushed without leaking. No drip trays shall be permitted. No water-closet fixtures shall be encased in any woodwork.

Closets in existing houses.

§ 50. In all now existing tenement houses, the woodwork enclosing all water-closets shall be removed from the front of said closets and the space underneath the seat shall be left open. The floor and other surface beneath and around the closet shall be maintained in good order and repair and if of wood shall be kept well painted with light colored paint.

Sinks in existing houses.

§ 51. In all now existing tenement houses, the woodwork inclosing sinks located in public halls or stairs shall be removed, and the space underneath said sink shall be left open. The floors and wall surfaces beneath and around the sink shall be maintained in good order and repair, and if of wood, shall be well painted.

Cellar floors.

§ 52. The floor of the cellar or lowest floor of every tenement house shall be water-tight, and the cellar ceiling shall be plastered when so required by the department charged with the enforcement of this act, except where the first floor above the cellar is constructed of iron beams and fireproof filling.

Cellar walls.

§ 53. The cellar walls and ceilings of every tenement house shall be thoroughly whitewashed or painted a light color by the owner and shall be so maintained. Such whitewash or paint shall be renewed whenever necessary as may be required by the department charged with the enforcement of this act.

Houses must be kept in repair.

§ 54. Every tenement house and all parts thereof shall be kept in good order and the roof shall be kept so as not to leak, and all rainwater shall be so drained and conveyed therefrom as to prevent it dripping on the ground or causing dampness in the walls, ceilings, yards or areas.

Cleanliness.

§ 55. Every tenement house and every part thereof shall be kept clean and free from any accumulation of dirt, filth or garbage or other matter in or on the same, or in the yards, courts, passages, areas or alleys connected or belonging to same.

Same.

§ 56. In every tenement house there shall be at the bottom of every shaft and inner court, a door giving sufficient access to such shaft or court to enable it to be properly cleaned out.

Court walls.

§ 57. The walls of all yard courts, inner courts and shafts, unless built of a light color brick or stone, shall be thoroughly whitewashed by the owner, or shall be painted a light color by him and so maintained.

Wall-paper.

§ 58. No wall-paper shall be placed upon a wall or ceiling of any tenement house unless all wall-paper shall be first removed therefrom and said wall and ceiling thoroughly cleaned.

Receptacles for garbage.

§ 59. The owner of every tenement house shall provide for said building proper and suitable conveniences or receptacles for ashes, rubbish, garbage, refuse and other matter.

Keeping of livestock.

§ 60. No horse, cow, calf, swine, sheep or goat shall be kept in a tenement house, or within twenty feet thereof on the same lot, and no tenement house, or the lot or premises thereof, shall be used for a lodging-house or stable, or for the storage or handling of rags.

Janitor.

§ 61. Whenever there shall be more than eight families living in any tenement house, in which the owner does not reside, there shall be a janitor, housekeeper, or some responsible person who shall reside in said house and have charge of same, as the department charged with the enforcement of this act shall so require.

Overcrowding.

§ 62. No room in any tenement house shall be so overcrowded that there shall be afforded less than four hundred cubic feet of air to each adult, and two hundred cubic feet of air to each child under twelve years of age occupying such room.

Construction of building, specifications to be filed.

§ 63. Before the construction or alteration of a tenement house, or the alteration or conversion of a building for use as a tenement house is commenced, and before the construction or alteration of any building or structure on the same lot with a tenement house, the owner, or his agent, or architect, shall submit to the department charged with

the enforcement of this act, a detailed statement in writing, verified by the affidavit of a person making the same, of the specifications for the construction and for the light and ventilation of such tenement house or building, upon a blank or form to be furnished by such department, and also a full and complete copy of the plans of such work. Such statement shall give in full the name and residence, by street and number, of the owner or owners of such tenement house or building. No person, however, shall be recognized as the agent of the owner, unless he shall file with the said department a written instrument signed by such owner designating him as agent. Any false swearing in a material point in such affidavit shall be deemed perjury. Such specifications, plans and statements shall be filed in said department and shall be deemed public records, and no such specifications, plans or statements shall be removed from said department.

Rent not recoverable, when.

§ 64. If any building hereafter constructed as or altered into a tenement house be occupied in whole or in part for human habitation in violation of the last section, during such unlawful occupancy no rent shall be recoverable by the owner or the lessee of such premises for said period, and no action or special proceeding shall be maintained therefor, or for the possession of said premises for the nonpayment of such rent.

Who shall enforce act.

§ 65. Except as herein otherwise provided, the provisions of this act shall be enforced by the departments of any incorporated town, incorporated city, or city and county to which this act applies, which are now charged with the enforcement of laws, ordinances and regulations relating to the erection of buildings, the protection of public health or police and fire protection.

Abrogation of powers not intended.

§ 66. Nothing in this act shall be construed to abrogate or impair the powers of the department of health, the department of public works or of the courts, to enforce any provisions of the charter or building ordinances and regulations of any incorporated town, incorporated city, or city and county, not inconsistent with this act, or to prevent or punish violations thereof.

Violation of act, penalty for.

§ 67. Every person who shall violate or assist in the violation of any provisions of this act shall be guilty of a misdemeanor punishable by imprisonment for ten days for each and every day that the violation shall continue, or by a fine of not less than ten dollars or more than one hundred dollars if the offense be not willful, or two hundred and fifty dollars if the offense be willful, and in every case of ten dollars for each day after the first that such violation shall continue, or by both such fine and imprisonment in the discretion of the court. The owner of the tenement house or part thereof, or of any building or structure upon the same lot with a tenement house, or of the said lot, where any violation

of this act, or a nuisance exists, and any person who shall assist and violate any provisions of this act, or any notice or order of the department charged with the enforcement, shall also jointly and severally for each violation and each nuisance be subject to a civil penalty of fifty dollars.

Same.

§ 68. Any owner, agent, architect, builder, contractor, sub-contractor or foreman who shall, in the construction or alteration of any building intended to be used as a tenement house, knowingly violate any of the provisions of the building laws, contained in or based upon this act, ordinances or regulations, shall be guilty of a misdemeanor.

Fines shall be a lien.

§ 69. Every fine imposed by judgment under sections 67 and 68 of this act upon a tenement house owner, shall be a lien upon the house in relation to which the fine is imposed from the time of the filing of a certified copy of said judgment in the office of the clerk of the county in which said tenement house is situated.

Owners and lessees to file statement.

§ 70. Every owner of a tenement house and every lessee of the whole house, or other person having control of a tenement house, shall file in the department charged with the enforcement of this act, a notice containing his name and address and also a description of the property, by street and number and otherwise, as the case may be, in such manner as will enable the department charged with the enforcement of this act to easily find the same; and also the number of apartments in each house, the number of rooms in each apartment, and the number of families occupying the apartments. In case of a transfer of any tenement house, it shall be the duty of the grantee of said tenement house to file in the department charged with the enforcement of this act, a notice of such transfer, stating the name of the new owner, within thirty days after such transfer. In case of the devolution of the said property by will, it shall be the duty of the executor and the devisee, if more than twenty-one years of age, and in case of devolution of such property by inheritance without a will, it shall be the duties of the heirs, or in case all of the heirs are under age it shall be the duty of the administrator of the deceased owner of said property to file in said department a notice, stating the death of said owner and the names of those who have succeeded to his interests, within thirty days after the death of the decedent, in case he died intestate, and within thirty days after the probate of his will, if he died testate.

Service of process.

§ 71. Every owner, agent or lessee of a tenement house shall file in the department charged with the enforcement of this act, a notice containing the name and address of such agent of such houses, for the purpose of receiving service of process, and also a description of the property, by street and number or otherwise, as the case may be, in such

manner as will enable the department of health to easily find the same. The name of the owner or lessee may be filed as agent for this purpose.

Time of service.

§ 72. Every notice or order in relation to a tenement house shall be served five days before the time for doing the thing in relation to which it shall have been issued.

Summons, service of.

§ 73. In any action brought by any department charged with the enforcement of this act in relation to a tenement house for injunction, vacation of the premises, or other abatement of nuisance, or to establish a lien thereon, it shall be sufficient service of summons to serve the same as notices and orders are served under the provisions of the Code of Civil Procedure.

Must not be used as assignation house.

§ 74. A tenement house shall be subject to a penalty of one thousand dollars, if it or any part of it shall be used for the purposes of a house of prostitution or assignation of any description, with the permission of the owner thereof, or his agent, and said penalty shall be a lien upon the house and the lot upon which the house is situated.

When to be deemed so used.

§ 75. A tenement house shall be deemed to have been used for the purposes specified in the last section with the permission of the owner or lessee thereof, if summary proceedings for the removal of the tenants of said tenement house, or so much thereof as is unlawfully used, shall not have been commenced within five days after notice of such unlawful use, served by the department charged with the enforcement of this act in the manner prescribed by law for the service of notices and orders in relation to tenement houses.

Evidence.

§ 76. In a prosecution against an owner or agent of a tenement house under section 647 of the Penal Code, or in an action to establish a lien under section 74 of this act, the general reputation of the premises in the neighborhood shall be competent evidence, but shall not be sufficient to support a judgment without corroborative evidence, and it shall be presumed that their use was with the permission of the owner or lessee; provided that such presumption may be rebutted by evidence.

Who styled as defendant.

§ 77. Said action shall be brought against the tenement house as defendant. Said house may be designated in the title of the action by its street and number or in any other method sufficiently precise to secure identification. The property shall be described in the complaint. The plaintiff, except as hereinafter provided, shall be any department charged with the enforcement of this act.

Where action shall be brought.

§ 78. Said action shall be brought in the superior court in the county or city and county in which the property is situated. At, or before the commencement of the action, the complaint shall be filed in the office of the clerk of the county or city and county, together with a notice of the pendency of the action, containing the names of the parties, the object of the action, and a brief description of the property affected thereby.

Judgment.

§ 79. The judgment in such action, if in favor of the plaintiff, shall establish the penalty sued for as a lien upon said premises, subject only to taxes, assessments, and to such mortgage and mechanics' liens as may exist thereon prior to the filing of the notice of pendency of the action.

Statutes inconsistent repealed.

§ 80. All statutes of the state and ordinances of incorporated towns, incorporated cities and cities and counties so far as inconsistent with the provisions of this act, are hereby repealed; provided, that nothing in this act contained shall be construed as repealing or abrogating any present law or ordinance in any incorporated towns, incorporated city or city and county of the state, further restricting or prohibiting the occupation of cellars, or increasing the amount of air space to each individual occupying a room, or as prohibiting any further ordinance with respect thereto.

Ordinances shall not modify act.

§ 81. Except as herein otherwise provided, every tenement house shall be constructed and maintained in conformity with the existing law, but no ordinance, regulation or ruling of any municipal authority shall modify or dispense with any provisions of this act.

Permits for construction.

§ 82. Every person desiring to construct a tenement house shall obtain a permit from the department charged with the enforcement of this act, for which he shall pay into the general fund of said incorporated town, incorporated city or city and county the sum of ten (10) cents for each one thousand cubic feet or fractional part thereof contained therein. No permit to be issued for less than three dollars (\$3). Every owner or lessee of a tenement house shall obtain at the beginning of each year a license from the department charged with the enforcement of this act, for which he shall pay the following sums: For a house accommodating not more than five families \$1, for each additional five families \$1 for each fiscal year. Such moneys shall be paid into the general fund of said incorporated town, incorporated city or city and county.

**TITLE 519.
THEATERS.****ACT 4099.**

An act making it unlawful to refuse admission to places of amusement.
[Approved March 23, 1893. Stats. 1893, p. 220.]

Citations. Cal. 140/860; 149/81, 82.

Codified by §§ 53 and 54 of Civil Code, adopted 1905.

See ante, Act 605.

"Superseded by Civil Code, §§ 53, 54 (1905, p. 554). Constitutional: Greenberg v. Western Turf Assn., 140 Cal. 857; Greenberg v. Western Turf Assn., 148 Cal. 126."

**TITLE 520.
THISTLE.****ACT 4104.**

Thistle, Scotch or Canada, act to prevent propagation of in the counties of Humboldt, Siskiyou, Klamath, Del Norte, and Alameda. [Stats. 1871-72, p. 214.]

**TITLE 521.
TIA JUANA FLOOD.****ACT 4109.**

Appropriation for the benefit of the sufferers of the Tia Juana flood.
[Stats. 1891, p. 450.]

Unconstitutional: Patty v. Colgan, 97 Cal. 251.

**TITLE 522.
TOBACCO CULTURE.****ACT 4113.**

An act to provide for experimental work in tobacco culture in the state of California, and making an appropriation therefor. [Approved March 8, 1907. Stats. 1907, p. 186.]

This act provided for investigations and experiments under the supervision and direction of the director of the agricultural station of the University of California.

**TITLE 523.
TORRENS LAND SYSTEM.****ACT 4114.**

An act to create a special commission for the purpose of examining and reporting to the thirty-first session of the legislature on the Torrens land transfer act of Australia, and making an appropriation therefor. [Approved March 9, 1893. Stats. 1893, p. 121.]

This act created a commission of five persons for the purpose indicated.

ACT 4115.

An act for the certification of land titles and the simplification of the transfer of real estate.

[Approved March 17, 1897. Stats. 1897, p. 138.]

Citations. Cal. 151/42, 44, 45, 48, 50.

COUNTY RECORDERS EX OFFICIO REGISTRARS.**Recorders to be registrars.**

§ 1. Recorders and ex officio recorders in the several counties of this state shall be registrars of titles in their respective counties, and their deputies shall be deputy registrars. All laws relative to recorders and their deputies, including their compensation, clerk hire, and expenses, shall extend to registrars and their deputies, so far as the same may be applicable, except as in this act otherwise provided. Registrars of titles shall be county officers within the meaning of the laws of this state.

Bonds of recorders to cover their duties as registrars.

§ 2. The official bonds now required by law to be given by recorders and ex officio recorders before entering upon the discharge of their duties, shall also apply to and cover the faithful discharge of their duties as registrars, whether such additional condition be specifically provided for in such bonds or not.

Deputies may act.

§ 3. Deputies may perform any and all duties of the registrar, in the name of the registrar, and the acts of such deputies shall be held to be the acts of the registrar.

Registrar and deputy not to practice law.

§ 4. Registrars and deputy registrars are prohibited from practicing law, or acting as attorneys or counselors at law, or having as a partner a lawyer or any one who acts as such, or from acting as searchers of title under this act.

BRINGING LAND UNDER THE ACT.**Application by verified petition; character of applicant; county of application.**

§ 5. Land may be brought under the operation of this act by the filing with the county clerk of a verified petition to the superior court of the county within which such land is situated, by the owner of any estate or interest in such land, whether legal or equitable (other than an undivided share, or an easement). The clerk shall immediately indorse on such application the exact time of its presentation, and enter the same in a book kept for that purpose and known as the land register docket. Persons who collectively claim to hold the entire legal estate in fee simple may jointly file such petition. A corporation may apply by its authorized agent, an infant by his guardian; any other person under disability by his guardian or trustee. Land constituting a single parcel and lying partly in two or more counties may be included in one application, which may be made in either county in which the land lies, but the certificate issued therefor must be filed with the registrars of all the counties within which such land is situate. Two or more parcels of land may be included in one application if owned by the same person and in the same right.

Contents of application.

§ 6. The petition shall set forth substantially:

(a) The name, occupation, place of residence, and postoffice address of the applicant, and if the application is by one acting in behalf of another, the name, place of residence, postoffice address, and capacity of the person so acting, and the nature of the disability of the person for whom he is acting.

(b) Whether the applicant (except in case of a corporation) is married or not, and if married, the name and residence of the husband or wife.

(c) The description of the land.

(d) The applicant's estate or interest in the same, and whether the same is subject to an estate of homestead.

(e) Whether the land is occupied or unoccupied, and, if occupied, the name and postoffice address of each occupant, and what estate or interest he has or claims in the land.

(f) Whether the land is subject to any easement, lien, or encumbrance, and, if any, the name and postoffice address if known of each holder thereof, and the nature and amount of the same, and, if recorded, the book and page of the record.

(g) Whether any other person has any estate or claims any interest in the land, in law or equity, in possession, remainder, reversion, or expectancy, and, if any, the name and postoffice address if known of every such person, and the nature of his estate or claim.

(h) The names and postoffice addresses of all the owners of the adjoining lands, so far as he is able, upon diligent inquiry, to ascertain the same.

(i) If the applicant is a male, that he is of the full age of twenty-one years; if a female, that she is of the full age of eighteen years. If the application is made by a corporation, its name, when and where incorporated, its principal place of business, and the names and postoffice addresses of its president and secretary. If the application is by a husband or wife, and the property is community property, the petition must so state, and both spouses must join therein. A plat or plan of survey of the land made by the county or a licensed surveyor must accompany the application, and if said land is a part of a city, town, or subdivision, the application must refer to the book and page of the records of the county where the map of said city, town, or subdivision is recorded, if at all.

Each application must be accompanied by an abstract of the title, verified by the searcher making the same, as required in proceedings in partition, or, if made by a corporation engaged in the business of making and certifying abstracts of title, then in lieu of the affidavit a certificate by such corporation, under its seal, shall be sufficient. When the title to the land in question has been previously determined by a final decree of a court of competent jurisdiction, such abstracts need not antedate such decree unless required by the court in which such application is filed. No person or corporation shall be authorized to make or

furnish such abstracts of title until after entering into an undertaking with two or more sufficient sureties to the people of the state of California in a sum not less than ten thousand dollars, which may be increased from time to time by order of the court. Such bonds shall be recorded in the record of official bonds in the recorder's office of the county, and then filed in the county clerk's office. Said bond shall be conditioned to pay all damages and costs which the state may sustain by reason of any error or insufficiency in said abstract. The sureties on such bond shall qualify as provided in section 1057 of the Code of Civil Procedure, and the sufficiency of the bond and of the sureties thereon shall be approved by a judge of the superior court of the county where such bond is to be filed. The sureties upon such bond may become severally liable in portions of not less than five hundred dollars each, making in the aggregate at least two sureties for the whole sum. Said bond shall be renewed as often, at least, as once in every period of three years.

Registration of fee simple must precede all else.

§ 7. No mortgage, lien, charge, or lesser estate than a fee simple shall be registered unless the fee simple to the same land is first registered.

Registration not to be raised because of encumbrance.

§ 8. It shall not be an objection to bringing land under this act, that the estate or interest of the applicant is subject to any outstanding lesser estate, mortgage, lien, or charge; but every such lesser estate, mortgage, lien, or charge shall be noted upon the certificate of title and the duplicate thereof, and the title or interest certified shall be subject only to such estates, mortgages, liens, and charges as are so noted, except as herein provided.

No registration based on tax title until after five years adverse possession.

§ 9. No title derived through sale for any tax or assessment shall be entitled to be first registered, unless it shall appear to the satisfaction of the court, upon the hearing of the application, that the applicant, or those through whom he claims title, have been in the open, actual, continuous, uninterrupted, undisputed, exclusive, and adverse possession of the land under such title at least five years, and have paid all taxes and assessments legally levied thereon for five successive years.

Amendment to application verified.

§ 10. The application may be amended only by petition verified as in the case of the original. Such amendment may be ordered by the court on its own motion, or upon the motion of any person interested in the proceeding.

Filing of application to be notice to subsequent purchasers.

§ 11. The filing of the application in the office of the county clerk shall be sufficient notice of the same to all subsequent purchasers or encumbrancers without the filing of a lis pendens in the office of the recorder.

Court to dismiss application, or set it for hearing.

§ 12. The court shall, in its discretion, examine the abstract itself, or refer the same, as provided in section 18 of this act. If it shall appear to the court, from an examination of the abstract, or from the report of the referee, that the title to the land described in the application is substantially as alleged by the applicant, the application shall be set for hearing, otherwise the court may order the application dismissed.

Notice of hearing to be given; anyone may appear and object; costs.

§ 13. When the time and place for hearing the application is fixed by the court, notice thereof shall be given to all parties interested, as shown by the petition and the abstract or referee's report, and to the husband or wife of the applicant, if married, and the owners of adjoining lands, in the same manner as the service of a summons in a civil action, and by publication for at least four weeks, in some newspaper of general circulation, to be designated by the court; provided, that no copy of abstract or map need be served with the petition. Any person interested may appear and object to the granting of the application, and if such objection is sustained, the costs of the same shall be paid by the applicant; if not, by the person so objecting. The time for appearance after service shall be the same as in the case of a civil action.

Upon the hearing the court to take evidence on the allegations of petition; and may adjourn hearing.

§ 14. Upon the day set for the hearing of the application, or at such time as the same may be continued to, the court shall cause examination to be made into the applicant's title to the land in question, and shall hear testimony as to the allegations of the petition, or of any objections thereto; and if any defects are found in the application, or in the applicant's title to the land, or if any of the allegations of the petition are found to be untrue, or any objections to said petition are sustained, the court may dismiss such application, or may give the applicant such further time as the court may deem reasonable, before finally passing upon his application.

Decree setting forth title to be made by court on granting application.

§ 15. If it shall be made to appear, to the satisfaction of the court, that the notice required by section thirteen has been duly given and served; that the facts stated in the application are true, and that the applicant is the owner of the land, or interested therein, as set forth in the petition, the court shall duly make, give and enter a decree to that effect, which said decree shall contain an accurate description of the property in question, with a diagram thereof, and also shall set forth all liens and encumbrances on said land, with the name of the holder thereof, and the nature, amount, and order of the same, and, if recorded, the book and page of the record. Any party aggrieved by such decree may appeal therefrom in the manner now or hereafter provided by law for appeals in civil actions.

Registrar to issue certificate of title upon filing of certified copy of decree.

§ 16. A certified copy of such decree shall be filed in the office of the registrar, who shall thereupon issue a certificate of title to the person entitled thereto as shown by said decree, and shall proceed to bring said land under the operation of this act, as herein provided. Said certificate shall contain the description of the property set forth in the decree, and shall also show the nature, amount, and order of the liens thereon.

Decree to be in rem, and conclusive.

§ 17. The decrees of the court ordering registration shall be in the nature of a decree in rem, and shall be final and conclusive as against the rights of every and all persons, known and unknown, to assert any estate, interest, claim, lien, or demand of any nature or kind whatever, against the land so ordered registered, except as provided in this act.

Court to appoint referee; compensation of searcher and of referee.

§ 18. Upon the filing of the petition the court may appoint a referee to examine and report upon the abstract accompanying the same. Such referee shall be an attorney in good standing, skilled in the examination of titles, of not less than three years' practice at the bar of the court so appointing him. The compensation of the searcher and of the referee shall be fixed by the court, or agreed upon between themselves and the applicant, and shall be paid by the applicant as a part of the costs of the proceeding.

Written opinion of referee to be filed before decree made.

§ 19. Whenever such abstract shall be made and such referee appointed, no decree shall be entered by the court until the written opinion of such referee shall be filed in the proceeding, showing the nature of the applicant's title to the land; and if the same is subject to any lesser estate, mortgage, lien, or charge, particularly specifying the same and the priority thereof. The estate of homestead shall be included in the term "lesser estate."

Applicant may withdraw application upon payment of fees at any time prior to issuance of certificate of title.

§ 20. Any applicant may, upon payment of all fees due, withdraw his application for registration at any time prior to the issuing of a certificate of title; and upon the written request of such applicant and the order of the court, the clerk shall return to the applicant all abstracts of title, deeds, and other instruments, except depositions or affidavits deposited by him for the purpose of supporting his application.

On transfer of interest or death of applicant, proceedings may be continued.

§ 21. In case of the death or any disability of the applicant, the court, on motion, may allow the proceeding to be continued by or against his representative or successor in interest. In case of any other transfer of interest the proceeding may be continued in the name of the original

applicant, or the court may allow the person to whom the transfer is made to be substituted in the proceeding.

Registrar to keep record of particulars of issuance.

§ 22. The registrar shall immediately, upon the registration of any land, make an entry in a book kept by him for that purpose, showing the name of the person to whom the certificate was issued, its number, the day, hour, and minute of its issuance, the name of the person to whom the duplicate certificate was delivered, and the book and page where the original certificate is entered or recorded.

Certificate of title to be in duplicate; its contents; original to be retained by registrar.

§ 23. Every first and subsequent certificate of title shall be in duplicate and numbered consecutively and bear date the year, month, day, hour, and minute of its issue, and be under the hand and official seal of the registrar, one copy of which shall be retained by the registrar and be known as the original, and the other shall be delivered to the owner, or person acting for him, and be known as the duplicate. It shall state whether the owner, except in the case of a corporation, executor, administrator, assignee, or other trustee, is married or not married, and the name of the husband or wife. If the owner is a minor it shall state his age; if under any other disability, the nature of the disability. If issued to an executor or administrator, the certificate shall show the name of the deceased testator or intestate; if to an assignee in insolvency, the name of the insolvent. The registrar shall note at the end of the certificate, original and duplicate, in such manner as to show and preserve their priorities, the particulars of all estates, mortgages, liens, encumbrances, and charges to which the owner's title is subject.

Form of certificate.

§ 24. No particular form of certificate of title is required, but the same may be, subject to such changes as the case may require, substantially in the following form:

State of California, } ss.
County of ———, }

A. B. (state occupation and residence, giving street and number), state of California (if an administrator, give the name of the deceased; if a minor, give his age; if under other disability, state its nature), married to (name of husband or wife, or if not married so state), is the owner of an estate in fee simple (or as the case may be) in the following land (insert description contained in the decree). Subject, however, to the estates, easements, liens, encumbrances, and charges hereunder noted. (In case of trust, condition, or limitation, say "in trust," or "upon condition," or "with limitation," as the case may be.)

1. Mortgage to C. D. for the sum of \$——, dated ———, payable ——— after date, with interest at ——— per cent per ———, interest payable ———.
2. Mechanic's lien in favor of X. Y. for \$——, filed ———.

3. Assessment for improvement of — street. Amount \$—, due

(Any other encumbrances or charges.)

In witness whereof, I have hereunto set my hand and caused my official seal to be affixed, this — day of —.

[Seal]

Registrar of Titles in and for the county of —, state of California.

Tenants in common may receive each a certificate.

§ 25. In all cases where two or more persons are entitled as tenants in common to an estate in registered land, such persons may receive one certificate for the entirety, or each may receive a separate certificate for his undivided share.

Registered owner may consolidate several or divide up one certificate.

§ 26. Upon the application of any registered owner of land held under separate certificates of title, or under one certificate, and delivering up of such certificate or certificates of title, the registrar may issue to such owner a single certificate of title for the whole of such land, or several certificates, each containing a portion of such land, in accordance with such application, and as far as the same may be done consistently with any regulations at the time being in force, respecting the certificates of land that may be included in one certificate of title; and upon issuing any such certificate of title said registrar shall indorse on the last previous certificate of title of such land so delivered up a memorial, setting forth the occasion of such cancellation and referring to the volume and folium of the new certificate or certificates of title so issued.

Certificate may be issued by order of court in lieu of lost duplicate; proceedings therefor.

§ 27. In the event of a duplicate certificate of title being lost, mislaid, or destroyed, the owner may apply to the court for an order upon the registrar to issue a certified copy of the original certificate of registration. Upon the hearing of such application, the court may order such notice to be given to such persons, and for such time as it may deem proper. If the court is satisfied that the applicant is the person named in the original certificate on file in the registrar's office, and that the duplicate certificate has been lost, mislaid, or destroyed, the court shall make an order directing the registrar to issue a certified copy of the original certificate to the applicant. A certified copy of such order shall be filed in the registrar's office, who shall thereupon issue to such applicant a certified copy of the original certificate, with the memorials and notations appearing upon the register, and shall note upon the register the fact, cause, and date of such issue, and shall also mark upon such certified copy: "Owner's certified copy, issued in place of lost (mislaid, or destroyed, as the case may be) certificate," and such certified copy shall stand in the place of, and have like effect, as the missing duplicate certificate. In case of a lost certificate, no transfer of the land shall be made until such certified copy is issued by the registrar. A certified

copy of the certificate of title may be issued by the registrar for use as evidence, upon the receipt by him of an order therefor made by the court; provided, that such certified copy shall have written or stamped across the face thereof the words "For use as evidence only." The issuance of such certified copy and the purpose thereof shall also be noted upon the original certificate by the registrar.

Change of name or of description to be noted on order of court.

§ 28. If an owner's name or description is incorrectly registered, or becomes changed (e. g., by marriage, adoption, divorce, etc.), the court, upon the filing of an application and proof of facts in the manner set forth in section 27 of this act, and the production by the owner of the duplicate certificate, shall order the registrar to issue a new certificate, with such changes as the case may require.

THE REGISTER OF TITLES.

Original certificate to be entered in register; memorials to be on latest certificate.

§ 29. The registrar shall keep a book, to be known as the "Register of Titles," wherein he shall enter all original certificates of title, in the order of their numbers, with appropriate blanks for the entry of memorials and notations allowed by this act. Each certificate, with such blanks, shall constitute a separate folium of such book. All memorials and notations that may be entered upon the register under the terms of this act shall be entered upon the folium constituted by the last certificate of title of the land to which they relate. Each certificate of title shall be numbered the same as the folium of the register on which the registration of the title of which it is a duplicate is entered.

Receipt to be given for duplicate certificate on its issuance.

§ 30. Before the delivery of any duplicate certificate of title, a receipt for it shall be required to be signed by the owner. Where such receipt is signed in the presence of the registrar or a deputy, it shall be witnessed by such officer. If signed elsewhere, it shall be acknowledged before any officer authorized to take acknowledgments of deeds.

First registration deemed complete on notation of original entries upon certificates.

§ 31. In every case of first registration of land or an estate or interest therein, the same shall be deemed to be registered under this act, when the registrar shall have marked upon the certificate of title, in duplicate, the volume and folium of the register in which the original may be found.

Transfer complete on notation upon new certificate; other dealings complete on notation; registration to relate back to filing with registrar.

§ 32. Every transfer of registered land shall be deemed to be registered under this act, when the new certificate to the transferee shall have been marked, as in the case of the first registration; and all other dealings shall be considered as registered when the memorial or notation shall have been entered in the register upon the folium constituted by

the existing certificate of title of the land. But, for the protection of the transferee or person claiming through any transfer or dealing, the registration shall relate back to the time of filing in the registrar's office the deed, instrument, or notice, pursuant to which the transfer memorial or notation is made.

Party aggrieved may bring action against registrar and others.

§ 33. Any person feeling himself aggrieved by the action of the registrar, or by his refusal to act in any matter pertaining to the first registration of land, or any subsequent transfer, or charge upon the same, or failing, or neglecting, or refusing to file any instrument, or to enter or cancel any memorial or notation, or to do any other thing required of him by this act, may file a complaint in the superior court making the registrar and other persons, whose interests may be affected, parties defendant, and the court may proceed therein as in other cases, and make such order or decree as shall be according to equity and the purport of this act. A certified copy of such order or decree shall be presented to the registrar, who shall file the same and make such entry thereof as by this act required.

EFFECT OF REGISTRATION.

In absence of fraud, title to be subject only to noted encumbrances; exceptions.

§ 34. The registered owner of any estate or interest in land brought under this act shall, except in case of fraud to which he is a party, or of the person through whom he claims without valuable consideration paid in good faith, hold the same subject only to such estates, mortgages, liens, charges, and interests as may be noted in the last certificate of title in the registrar's office, and free from all others, except:

1. Any subsisting lease or agreement for a lease for a period not exceeding one year, where there is actual occupation of the land under lease. The term "lease" shall include a verbal letting.

2. All public highways embraced in the description of the lands included in the certificate.

3. Any subsisting right of way or other easement, however created, upon, over, or in respect of the land.

4. Any tax or special assessment for which a sale of the land has not been had at the date of the certificate of title.

5. Such right of action or claim as is allowed by this act.

6. Liens, claims, or rights arising under the laws of the United States, which the statutes of California cannot require to appear of record upon the register.

No adverse possession after registration possible.

§ 35. After land has been registered no title thereto adverse or in derogation to the title of the registered owner shall be acquired by any length of possession.

Presumption of good faith in purchaser of registered land.

§ 36. Except in case of fraud, and except as herein otherwise provided, no person taking a transfer of registered land, or any estate or

interest therein, or of any charge upon the same from the registered owner, shall be held to inquire into the circumstances under which, or the consideration for which, such owner or any previous registered owner was registered, or be affected with notice, actual or constructive, of any unregistered trust, lien, claim, demand, or interest; and the knowledge that any unregistered trust, lien, claim, demand, or interest is in existence shall not of itself be imputed as fraud.

Persons defrauded shall not lose rights.

§ 37. In case of fraud, any person defrauded shall have all rights and remedies that he would have had if the land were not under the provisions of this act; provided, that nothing contained in this section shall affect the title of a registered owner who has taken bona fide for a valuable consideration, or of any person bona fide claiming through or under him.

Registration of forged instrument void but title of bona fide owner not affected.

§ 38. If a deed or other instrument is registered, which is forged, or executed by a person under legal disability, such registration shall be void; provided, that the title of a registered owner, who has taken bona fide for a valuable consideration, shall not be affected by reason of his claiming title through some one, the registration of whose right or interest was void, as provided in this section.

No unregistered interest shall prevail against bona fide registered owner.

§ 39. No unregistered estate, interest, power, right, claim, contract, or trust shall prevail against the title of a registered owner taking bona fide for a valuable consideration, or of any person bona fide claiming through or under him.

In absence of fraud, certificate of title is conclusive evidence in suit for specific performance of contract to purchase.

§ 40. In any suit for specific performance brought by a registered owner of any land under the provisions of this act against a person who may have contracted to purchase such land, not having notice of any fraud or other circumstances which, according to the provisions of this act, would affect the right of the vendor, the certificate of title of such registered owner shall be held in every court to be conclusive evidence that such registered owner has a good and valid title to the land, and for the estate or interest therein mentioned or described.

In ejectment or partition suits, certificate is conclusive evidence.

§ 41. In any action or proceeding brought for ejectment, partition, or possession of land, the certificate of title of a registered owner shall be held in every court to be conclusive evidence, except as herein otherwise provided, that such registered owner has a good and valid title to the land, and for the estate or interest therein mentioned or described, and that such registered owner is entitled to the possession of said land.

The register to be received as evidence.

§ 42. The register of any land, and duly certified copies thereof, shall, except as herein otherwise provided, be received in law and in equity

as evidence of the facts therein stated, and as conclusive evidence that the person named therein as owner is entitled to the land for the estate or interests therein specified.

Memorial to be noted until cancellation.

§ 43. Whenever a memorial has been entered, as permitted by this act, the registrar shall carry the same forward upon all certificates of title until the same is canceled in some manner authorized by this act.

Dealings subsequent to first registration subject to act.

§ 44. All dealings with land or any estate or interest therein, after the same has been brought under this act, and all liens, encumbrances, and charges upon the same subsequent to the first registration thereof, shall be deemed to be subject to the terms of this act, and to such amendments and alterations as may hereafter be made. The bringing of land under this act shall imply an agreement which shall run with the land, that the same shall be subject to the terms and provisions of the act and of amendments and alterations thereof.

Five years' limitation to bringing of action affecting registered land; incompetents to appear.

§ 45. No person shall commence any action at law or in equity for the recovery of land, or assert any interest, right in, or lien or demand upon the same, or make entry thereon adversely to the title or interest certified in the first certificate bringing the land under the operation of this act, unless within five years after the first registration. It shall not be an exception to this rule that the person entitled to bring the action or make the entry is an infant, lunatic, or is under any disability, but action may be brought by such person by his next friend or guardian. It shall be the duty of the guardian, if there is any, to bring action in the name of his ward whenever it is necessary to preserve or enforce the ward's rights in registered land; provided, however, before such action shall proceed, it must be made to appear to the court that the person bringing such action, or those under whom he claims, had no actual notice of the proceedings to register such lands in time to appear and file his objections or assert his claim.

Action not to affect bona fide purchasers.

§ 46. The action provided for in the last preceding section, shall in no way affect or disturb the rights of any person in said land, acquired subsequent to the registration thereof, bona fide and without knowledge, and for a valuable consideration.

Claim to arise after expiration of five years preserved by noting memorial; proceedings subsequent.

§ 47. Any person having any interest, right, title, lien, or demand, whether vested, contingent, or inchoate, in, to, or upon registered land which existed at the time the land was first registered, and upon or for which no cause of action shall have accrued at the date of the registration of the land, may, prior to the expiration of said five years after

such registration, file in the registrar's office a notice, under oath, setting forth his interest, right, title, lien, or demand, and how and under whom derived, and the character and nature thereof; and if such claim is so filed, an action may be brought to assert or recover or enforce the same at any time within one year after the right of action shall have accrued thereon, or at any time within the period of five years after said first registration, and not afterwards. It shall be the duty of a life tenant or trustee to file such claim on behalf of any remainderman or reversioner, whether the remainder or reversion be at the time vested or contingent, and of a guardian to file such claim on behalf of his ward.

TRANSFERS.

Title passes on filing of deed and of duplicate.

§ 48. A registered owner of land desiring to transfer his whole estate or interest therein, or some distinct part or parcel thereof, or some undivided interest therein, or to grant out of his estate an estate for life or for a term of not less than ten years, may execute to the intended transferee a deed or instrument of conveyance in any form authorized by law for that purpose. And upon filing such deed or other instrument in the registrar's office and surrendering to the registrar the duplicate certificate of title, the transfer shall be complete and the title so transferred shall vest in the transferee; thereupon, the registrar shall issue in duplicate and register, as hereinbefore provided, a new certificate, certifying the title to the estate or interest in the land desired to be conveyed to be in the transferee, and shall note upon the original and duplicate certificate the date of the transfer, the name of the transferee, and the volume and folium in which the new certificate is registered, and shall stamp across the original and surrendered duplicate certificate the word "Canceled," in whole or part, as the case may be.

New certificate to issue for remainder, if but a parcel be transferred.

§ 49. When only a part of the land described in a certificate is transferred, or some estate or interest in the land is to remain in the transferrer, a new certificate shall be issued to him for the part, estate, or interest remaining in him.

Time of filing to be noted on instrument.

§ 50. The registrar shall mark as filed every deed, mortgage, lease, and other instrument which may be filed in his office, in the order of its receipt, and shall note thereon at the date of filing the minute, hour, day and year it is received. When the date of filing any instrument is required to be entered upon the register, it shall be the same as that indorsed upon such instrument.

Papers filed to be retained.

§ 51. All instruments, notices, and papers required or permitted by this act to be filed in the office of the registrar, shall be retained and kept in such office, and shall not be taken therefrom except by a subpoena duces tecum issued to, and served upon the registrar by a court

of record. But the registrar, on demand, the proper fee being tendered therefor, shall deliver to any person a copy or copies of such an instrument, with all memoranda, memorials, and indorsements thereon, duly certified under his hand and seal of office. The registrar shall, however, upon all such copies, indorse thereon in writing across the face thereof, in red ink, "Copy, no rights conveyed hereby."

Such copies to be received in evidence.

§ 52. Every copy of original instruments so certified as provided for in the last preceding section, shall be received in all cases in place of the original, and as evidence have the same force and effect as the original instrument.

Existing forms of deeds may be used.

§ 53. Like forms of deeds, mortgages, leases, and other instruments as are now or may hereafter be sufficient in law for the purpose intended, may be used in dealing with registered land and any estate or interest therein. Such instrument shall give the number of the certificate of title of the land described therein. But an indorsement, duly acknowledged, upon the duplicate certificate of title, substantially in the following form, viz.: "I, —, grant to — the real property described in this certificate. Witness — hand — and seal — this — day of —, —," shall be sufficient to transfer the property in said certificate described.

Name and address to be indorsed on instrument, and notices to be sent there.

§ 54. On all instruments presented to the registrar for registration shall be indorsed the name and address of the person so presenting the same, and all notices relating to the land therein described may be served on such person at such address. The address may be changed from time to time by such person filing with the registrar a written notice of such change.

Instrument affecting registered land to be but a contract until registered.

§ 55. A deed, mortgage, lease, or other instrument purporting to convey, transfer, mortgage, lease, charge, or otherwise deal with registered land, or any estate or interest therein, or charge upon the same, other than a will or a lease not exceeding one year where the land is in the actual possession of the lessee or his assigns, shall take effect only by way of contract between the parties thereto, and as authority to the registrar to register the transfer, mortgage, lease, charge, or other dealing upon compliance with the terms of this act. On the filing of such instrument, the land, estate, interest, or charge shall become transferred, mortgaged, leased, charged, or dealt with according to the purport and terms of the deed, mortgage, lease, or other instrument. The registrar shall immediately, upon the filing of such instrument, stamp or write upon the original and duplicate certificates of title the word "Transferred," "Mortgaged," "Leased," or otherwise, as the case may require, with the date of filing such instrument.

Certificate before retransfer, etc., must show freedom from tax sale and homestead.

§ 56. No transfer of title to land, or any estate or interest therein, or mortgage, shall be registered, if the last original certificate shows that the land has been sold for any tax or assessment upon which a deed has been given, and that the title is outstanding, or upon which a deed may thereafter be given, or if said certificate shows that the estate of homestead, if any, has not been released or extinguished, unless the transfer or mortgage is intended to be subject to such tax sale or homestead estate, in which case it shall be so stated in the certificate of title.

Certificate to state marriage or representative capacity, if any.

§ 57. Every certificate of title to land shall state whether the transferee (except when the latter is a corporation, executor, administrator, or assignee), is married or not married, and if married, the name of the husband or wife. If the transferee be an executor or administrator, the certificate shall give the name of the deceased testator or intestate, and if the transferee be an assignee, the name of the insolvent. The transferee shall furnish the registrar the necessary information before he shall be entitled to have the land transferred to him on the register.

MORTGAGES, LEASES, AND OTHER CHARGES.

Encumbrance on registered land must be registered.

§ 58. Every mortgage, lease, contract to sell, or other instrument intended to create a lien, encumbrance, or charge upon registered land, or any interest therein, shall be deemed to be a charge thereon, and must be registered as hereinafter provided.

Encumbrance created on filing of charge.

§ 59. On the filing of the instrument intended to create the charge in the registrar's office, and the production of the duplicate certificate of title, and it appearing from the original certificate of title that the person intending to create the charge has the title and right to create such charge, and the person in whose favor the same is sought to be created being entitled by the terms of this act to have the same registered, the registrar shall enter upon the proper folium of the register, and also upon the duplicate certificate, a memorial of the purport thereof, and the date of filing the instrument with a reference thereto, by its file number, which memorial shall be signed by the registrar. The registrar shall also note upon the instrument on file the volume and folium of the register where the memorial is entered.

Trust deed to be treated as a mortgage.

§ 60. A trust deed in the nature of a mortgage shall be deemed to be a mortgage, and be subject to the same rules as a mortgage.

If instrument charging land be in duplicate or more parts, but one need be filed.

§ 61. When any mortgage, lease, or other instrument creating or dealing with a charge upon registered land or any estate or interest therein,

is in duplicate, triplicate, or more parts, only one of the parts need be filed and kept in the registrar's office; but the registrar shall note upon the register whether the same is in duplicate, triplicate, or as the case may be, and shall also mark upon the others "Mortgagee's Duplicate," "Lessor's Duplicate," "Lessee's Duplicate," or as the case may be, and note upon the same the date of filing and the volume and folium of the register where the memorial is entered, and deliver them to the parties entitled thereto.

Certified copies identified as such may be issued.

§ 62. When an instrument is not executed in a sufficient number of parts for the convenience of the parties, the registrar may make and deliver to each of the parties entitled thereto certified copies of the instrument filed in his office, with the indorsements thereon, marking the same "Mortgagee's Certified Copy," "Lessor's Certified Copy," or as the case may be, and shall note upon the register the fact of issuing such copies. Such certified copies shall have the same force and effect and be treated as duplicates.

Assignment of charge by filing and noting of same by memorial.

§ 63. The holder of any charge upon registered land, desiring to transfer the same or any part thereof, may execute an assignment of the whole or any part thereof. The assignment of a part only must state whether the part transferred is to be given priority, to be deferred, or to rank equally, with the remaining part. Upon such assignment being filed in the office of the registrar and the production of the duplicate or certified copy of the instrument creating the charge held by the assignor, the registrar shall enter in the register opposite the charge, a memorial of such transfer, and how it ranks, with a reference to the assignment by its file number; he shall also note upon the instrument on file in his office intended to be transferred, and upon the duplicate or certified copy thereof produced, the volume and folium where the memorial is entered, with the date of the entry. The transferee shall be entitled to have a certified copy of the instrument of transfer, with the indorsement thereon, and in case of the transfer of the entire charge, the duplicate or certified copy of the instrument creating the charge.

Release of part or whole of charge to be noted as an assignment.

§ 64. A release, discharge, or surrender of a charge, or any part thereof, or of any part of the land charged, may be effected in the same way as above provided in the case of a transfer. In case only a part of the charge or of the land is intended to be released, discharged, or surrendered, the entry shall be made accordingly; but when the whole is released, discharged, or surrendered at the same or several times, the registrar shall stamp across the instrument on file, and the memorial thereof, and the duplicate or certified copy produced, the word "Canceled."

Charges to be enforced as at present, except as herein provided, and except that notice of *lis pendens* must be filed with registrar.

§ 65. All charges upon registered land, or any estate or interest in the same, may be enforced as now or hereafter allowed by law, and all laws with reference to the foreclosure and release or satisfaction of mortgages shall apply to mortgages upon registered land, or any estate or interest therein, except as herein otherwise provided, and except that until notice of the pendency of any suit to enforce or foreclose such charge is filed in the registrar's office, and a memorial thereof entered on the register, the pendency of such suit shall not be notice to the registrar, or any person dealing with the land or any charge thereon.

ATTORNEYS IN FACT.

Attorney in fact to deal with registered land must file his power.

§ 66. Before any person can convey, charge, or otherwise deal with registered land, or any estate or interest therein, as attorney in fact for another, the deed or instrument empowering him so to act shall be filed with the registrar, and a memorial thereof entered upon the original and duplicate certificates. If the attorney shall so desire, the registrar shall deliver to him a certified copy of the power of attorney, with the indorsements thereon. Revocation of a power may be registered in like manner.

TRUSTS, CONDITIONS, AND LIMITATIONS.

Trusts, etc., to be noted without any of the particulars.

§ 67. Whenever a deed or other instrument is filed in the registrar's office for the purpose of effecting a transfer of, or charge upon, registered lands, or any estate or interest therein, and it appears from such instrument that the transfer or charge is to be in trust, or upon any condition or limitation therein expressed, the registrar shall note in the certificate, and the duplicate thereof, or memorial, the words "in trust," or "upon condition," or "with limitations," as the case may be, but no entry shall be made of the particulars of any such trust, conditions, or limitations.

Every trustee with express authority, shall have power of sale.

§ 68. The trustee or transferee in any such instrument named, if the instrument contains the words "with power of sale," shall have power to deal with the land as the owner thereof; and a bona fide purchaser, mortgagee, or lessee is not bound to inquire into or determine whether or not the acts of such trustees are in accordance with the terms and conditions of the trust. When such power is conferred, the registrar shall note upon the certificate and duplicate thereof the words "with power of sale."

No trustee, with limitation, shall sell without order of court to sell.

§ 69. If, however, such instrument does not contain the words "with power of sale," such trustee shall have no power to sell or otherwise deal with the land without an order of court so to do, duly given and

made, a certified copy of which said order shall be filed with the registrar, and a memorial thereof entered upon the certificate of title, which shall be conclusive evidence as against all persons that the authority of such trustee was duly executed in accordance with the true intent and meaning of the trust, condition, or limitation.

Trustee under which shall have power to sell unless it be withheld.

§ 70. A trustee under any will admitted to probate, unless such power shall have been expressly withheld by the terms of such will, shall have power to deal with any registered land held by him in trust as fully in every respect as if such lands belonged to him individually.

ESTATES IN PROBATE, IN INSOLVENCY, AND IN EQUITY PROCEEDINGS.

Existing statutes governing probate, insolvency, and equity proceedings, not affected.

§ 71. The distribution, transfer, leasing, mortgaging, or other change in the status of the title of registered land that is within the jurisdiction of any court by reason of the pendency of probate, insolvency, or equity proceedings, shall be made under the same conditions and limitations as now or hereafter provided by the law of this state.

Orders of sale, decrees of distribution, etc., to contain direction to registrar.

§ 72. The court in its order or decree making such distribution, transfer, leasing, mortgaging, or other change in the status of the title of registered land, shall direct the registrar to issue a certificate of title, or to note a memorial of the transaction, as the case may require, in accordance with such order or decree.

Certified copy of order, decree, deed, and confirmation to be filed with registrar.

§ 73. The executor, administrator, assignee, receiver, or other person acting under the direction of said court, shall file with the registrar a certified copy of such order or decree, also the deed, lease, mortgage, or other instrument executed in accordance with such order or decree, and also a certified copy of the order or decree confirming such sale, lease, mortgage, or other transaction, when such confirmation is required by law.

Order of court necessary for sale of land of insolvent and probate estates; confirmation and issuance of certificates thereof.

§ 74. Executors, administrators, and assignees in insolvency shall have no power of sale of lands registered in their names as such, without an order of court obtained for that purpose. Before any certificate can be issued to the purchaser, such sales shall be reported for confirmation to the court under whose authority such executor, administrator, or assignee is acting, and if confirmed, a duly certified copy of the order of confirmation shall be filed in the office of the registrar, and a memorial thereof entered upon the certificate of title. Upon the filing of the cer-

tified copy of such order of confirmation and the entry of such memorial, the registrar shall issue a certificate to the purchaser at such sale, which certificate, in addition to the usual contents thereof, shall refer to the said order of confirmation. Such order of confirmation shall be conclusive evidence that the sale was in all respects conducted in accordance with law, and the purchaser shall not be bound to inquire into the regularity of the proceeding, or power of the executor or administrator to make such sale.

Power of sale of executor to be noted.

§ 75. If a testator, by his will, has provided that the executor thereof shall have a power of sale of real estate, the court shall direct the registrar to register the words "with power of sale," in respect of the land of the deceased, and such executor shall have power to sell such land without an order of court so to do, but such sales must be confirmed by the court in the manner now or hereafter provided by the law of this state, and a duly certified copy of the order of such confirmation shall be filed with the registrar before any certificate of title can be issued to the purchaser of such land.

Registrar to issue certificate or note memorial; such to be conclusive.

§ 76. Thereupon the registrar shall issue the certificate of title, or note the memorial, as the case may require; and such certificate of title or memorial noted shall be conclusive evidence in favor of all persons thereafter dealing with said land.

TAX SALES.

Notice of purchase to be filed and mailed.

§ 77. A purchaser of registered land sold for any tax or assessment, shall, within one day after such purchase, file in the office of the registrar a written notice of such purchase. And thereupon the registrar shall enter a memorial thereof upon the certificate of title, and shall mail to each person named in the certificate, or in the memorials thereon, a copy of said notice, a sufficient number of said copies to be furnished to the registrar by said purchaser at the time of filing said notice. In case the state or a municipal corporation becomes the purchaser of land sold for any tax or assessment, the tax collector shall, within one day thereafter, file with the registrar a notice to that effect. And thereupon the registrar shall enter a memorial thereof upon the register, and shall mail notices to interested parties, as in the case of an individual purchaser. Unless such notice is given as herein provided, the land shall be forever released from the effect of such sale, and no deed shall be issued in pursuance thereof.

Tax deed already issued must be registered.

§ 78. A tax deed of registered land, or of any estate or interest therein, issued in pursuance of any sale for a tax or assessment made after the taking effect of this act, may be presented by the holder thereof to the registrar, who shall thereupon enter upon the register a

memorial of such deed; but such deed, unless the same shall have been issued to the state, shall have only the effect of an agreement for the transfer of the title, and before any certificate of title shall be issued for the land described in such deed, the holder thereof must file with the clerk of the superior court an application for a decree showing the title to said land to be vested in him.

Interested persons must be made parties to said application.

§ 79. All persons appearing upon the register to be interested in said land, and also the person who appears, by the tax collector's books to have paid the tax or assessment last paid before the sale on which the deed is issued, shall be notified; and any person claiming an interest in the land, may, upon the hearing of such application, show, as cause why a certificate of title should not issue to the order of said deed, any fact that might be shown in law or in equity on his behalf to set aside such tax deed, and the applicant shall be required to show affirmatively that all the requirements of the statute to entitle him to a deed have been complied with.

Decree shall be given showing condition of title.

§ 80. Such application shall be heard by the court, which shall render a decree showing the condition of the title to such land, and who is the owner thereof, and upon presentation to him, of a duly certified copy of such decree, the registrar shall issue a certificate for said land in accordance with the terms and conditions of said decree.

Tax deed to state conclusive.

§ 81. In case a tax deed of registered land is issued to the state or any municipal corporation, in pursuance of any sale for a tax or assessment made after the taking effect of this act, the registrar shall, upon the filing of such deed in his office, cancel the certificate for the land in said deed described, and issue a new certificate to the state therefor.

Notice to be personal or by mail and publication.

§ 82. The notice required in section 80 shall be given upon all persons residing in the state by personal service, and upon all persons living out of the state by mail and by publication in the manner now or hereafter required by the laws of this state in an action to quiet title. If such personal service be made by a sheriff or constable, his certificate, and if by any other person, his affidavit, shall be sufficient proof thereof. In case the place of residence of any person is not known to the registrar or the holder of such deed, notice shall be given by publication in a newspaper of general circulation in the county in which the land is situated, at least once a week for four consecutive weeks. Proof of such publication must be made in the manner now or hereafter required by the laws of this state.

On redemption, memorial to be canceled.

§ 83. Upon presentation to him of a certificate of redemption from any tax sale, the registrar shall cancel the memorial of said sale upon the certificate of title.

PARTITION AND JUDICIAL SALES.

All parties noted on register must be parties.

§ 84. In proceedings for partition of registered land, proof must be made that all persons, shown by the register of title to be interested in the land, have been made parties to such proceeding.

Decree must be filed before certificate issued.

§ 85. On confirmation of the report of the commissioners setting off registered lands in proceedings for partition, it shall be the duty of the parties to whom the lands are allotted, to cause a certified copy of the judgment or decree to be filed with the registrar. Thereupon the registrar shall transfer the same upon the register, and issue certificates of title to the persons entitled thereto, as shown by said decree.

When sale ordered, purchaser must file copy of decree.

§ 86. Whenever, in proceedings for partition of registered land, the court shall order a sale of such land, and the same is sold under such order, the purchaser shall file with the registrar a certified copy of the order confirming said sale, together with certificate of the officer holding the writ, that the terms of the sale have been complied with. Thereupon, the registrar shall transfer said land upon the register, and issue a certificate of title to the purchaser, therefor.

When mortgage on undivided share, lien attaches only to lands set off to mortgagor.

§ 87. When a tenant in common has given any mortgage, or granted any other lien or interest upon his undivided interest, and the same is set off in severalty in proceedings for partition, such mortgage, lien, or other interest shall attach only to the lands so set off, and the registrar shall note the same upon a new register of title, and a new certificate of title, and shall indorse a memorandum of the partition upon the instrument creating such lien, mortgage, or other interest, if the same be on file in his office, before a new certificate of title shall be issued therefor.

Purchaser at judicial sale must file certified copy of order confirming sale.

§ 88. Whenever registered land shall be sold to satisfy any judgment, decree, or order of court, the purchaser shall file with the registrar a duly certified copy of the order of sale, or of the order confirming such sale, when the same needs to be confirmed by the court, and also the certificate, if any, of the officer, that the terms of sale have been complied with, and thereupon the registrar shall transfer the land to him, and issue a new certificate of title therefor to said purchaser.

LIS PENDENS; NOTICE OF ACTION.

Notice to affect registered land must be filed with registrar.

§ 89. No suit, bill, or proceeding at law or in equity for any purpose whatever, affecting registered land, or any estate or interest therein, or any charge upon the same, shall be deemed to be lis pendens or notice to any person dealing with the same until notice of the pendency

of such suit, bill, or proceeding shall be filed with the registrar and a memorial thereof entered by him upon the register of the last certificate of the title to be affected; provided, however, this section shall not apply to attachment proceedings when the officer making the levy shall file his certificate as hereinafter provided.

When suit, etc., dismissed, certificate of dismissal or release must be filed with registrar.

§ 90. When any suit, bill, or proceeding affecting registered lands has been dismissed or otherwise disposed of, or any judgment, decree, or order has been satisfied, released, reversed, or modified, or any levy of execution, attachment, or other process has been released, discharged, or otherwise disposed of, it shall be the duty of the sheriff, or the clerk of the court in which such proceedings were pending, or had, as the case may be, forthwith, under his hand, and, if the clerk, under the seal of the court, to certify to and file with the registrar, an instrument showing such discharge or release. Upon the same being filed, the registrar shall enter a memorial of such discharge on the register. The costs of such certificate and memorial shall be taxed as other costs in the case.

LIENS, EXECUTIONS, ATTACHMENTS, ETC.

Certified copy of judgment or decree must be filed.

§ 91. No judgment, or decree, or order of any court shall be a lien on or in anywise affect registered land, or any estate or interest therein, until a certified copy of such judgment, decree, or order, under the hand and official seal of the clerk of the court in which the same is of record, is filed in the office of the registrar, and a memorial of the same is entered upon the register of the last certificate of the title to be affected.

Certificate of levy of attachment, or execution, must be filed.

§ 92. Whenever registered land is levied upon by virtue of any writ of attachment, execution, or other process, it shall be the duty of the officer making such levy forthwith to file with the registrar a certificate of the fact of such levy, a memorial of which shall be entered upon the register; and no lien shall arise by reason of such levy until the filing of such certificate and the entry in the register of such memorial, any notice thereof, actual or constructive, to the contrary notwithstanding.

Notice of mechanics' liens must be filed.

§ 93. Notice of liens under the provisions of the mechanics' lien laws of this state shall be filed in the registrar's office, and a memorial thereof entered by him upon the register, as in the case of other charges, and such liens may be enforced as now or hereafter allowed by law. Until such notice is so filed and registered, no lien shall be deemed to have been created.

Notice of assessments for street improvements, sewers, etc., must be filed by clerk.

§ 94. When in a city, town, or county, an ordinance, resolution, or order is passed or made, to lay out, establish, alter, widen, grade, regrade,

relocate, or construct or repair a street, sidewalk, drain or sewer, or to make any other public improvement, or to do any work, the whole or a portion of the expense for which assessments may be made upon real estate, if any registered land or any land included in an application for registration then pending is affected by the act or proceeding and liable to such assessment, the clerk of the board passing such ordinance, resolution, or order shall, within five days after the passage of such ordinance, resolution, or order, file in the registrar's office a notice of the passage thereof, and a memorial shall thereupon be noted on the register. In case of the repeal of such ordinance, resolution, or order, the clerk of said board, and in case of the satisfaction of any lien thereunder, the superintendent of streets or other officer required by law to collect and receive such assessments, shall, within five days thereafter, notify the registrar, who shall thereupon cancel such memorial.

No notice necessary in case of lien for labor performed for corporation not complying with law.

§ 95. No statutory or other lien shall be deemed to affect the title to registered land until after a memorial thereof is entered upon the register, as herein provided, except in cases of liens for labor performed for a corporation, as provided in the act of the legislature of the state of California, approved March thirty-first, eighteen hundred and ninety-one.

Clerk of court may file certificate of dismissal of suit or satisfaction of judgment.

§ 96. The certificate of the clerk of the court in which any suit, bill, or proceeding shall have been pending, or any judgment or decree is of record, that such suit, bill, or proceeding has been dismissed or otherwise disposed of, or the judgment, decree, or order has been satisfied, released, reversed, or overruled, or of any sheriff or other officer that the levy of any execution, attachment, or other process certified by him has been released, discharged, or otherwise disposed of, being filed in the registrar's office and noted upon the register, shall be sufficient to authorize the registrar to cancel or otherwise treat the memorial of such suit, bill, proceeding, judgment, decree, or levy, according to the purport of such certificate.

CORRECTIONS OF ERRORS IN CERTIFICATE.

No correction of register without order of court.

§ 97. After a title has been registered and a certificate issued therefor, or after a memorandum, notation, or memorial has been made on the register of title and has been attested, no correction, alteration, or erasure shall be made therein or thereof, except in the manner herein provided.

Registrar may apply to court for correction of errors or mistakes in certificate.

§ 98. Whenever it appears to the registrar that there is an error or omission in any certificate or memorial, or that any certificate or me-

memorial has been made, entered, indorsed, issued, or canceled by him, he may apply to the court for an order summoning all persons registered as interested in the lands to which such certificate or memorial is to appear at an appointed time and place and produce their duplicate certificates and show cause why such omission or mistake should be corrected, and shall thereupon enter a memorial of such application in the register.

If all parties consent, court may order correction of errors or mistakes. § 99. If at the time and place appointed all such persons appear and consent, the court may order and direct the registrar to correct such error, omission, or mistake on the register and on any duplicate certificate, and may direct the cancellation of any certificate or memorial entered by mistake.

If all parties do not consent, court may hear testimony as to error or mistake.

§ 100. If such persons, or any of them, fail to appear, or do not appear, the court may proceed to hear testimony as to such alleged error, omission, or mistake, and if it appear to the satisfaction of the court that an error, omission, or mistake has been made, he shall order and direct the registrar to correct the same and to cancel or modify such certificates or memorials as may be necessary to correct such error or mistake. When such error or mistake has been caused by the negligence of the registrar, the costs of such proceedings shall be paid by the state; if by the fault of any person registered as interested in the land, by such person. A certified copy of the order of court, directing the correction of any error, omission, or mistake in respect to any certificate or memorial shall be filed in the registrar's office before the correction shall be entered or made.

EMINENT DOMAIN.

Right of eminent domain not affected.

§ 101. Nothing in this act shall be construed to in anywise affect or modify the exercise of the right of eminent domain. When any proceeding shall have been brought in the exercise of such right, for the taking of registered land, or any interest therein, or to test the validity of any such taking, or to ascertain and establish the amount of damage by reason of any such taking, it shall be the duty of both parties to the proceeding to see that a certified copy of the judgment or decree therein is duly filed and a memorial thereof entered upon the register, but in the case of the assessment of damages, no such memorial shall be entered by the registrar until such damages have been paid, in the event the register shall also show the payment of such damages. It is provided, however, that the deposit with the treasurer, as allowed by law of such damages, shall be deemed a payment thereof, and in such case the treasurer shall forthwith file with the registrar a certificate of deposit, and thereupon a memorial thereof shall be entered upon the register. Upon the filing of the certified copy of the order or

of the court and the payment of damages, the registrar shall note on the register of title of the owners whose lands have been appropriated, a description of the land so appropriated, and shall register in the name of the person, corporation, or other body entitled thereto, the title of the land taken, and issue a certificate therefor.

INDICES.

Property indices to be kept.

§ 102. The registrar shall keep property indices, the pages of which shall be divided into columns, showing first, the section or subdivision; second, the range or block; third, the township or lot; fourth, any further description necessary to identify the land; fifth, the name of the registered owner; sixth, the volume; and seventh, the page of the register in which the lands are registered.

Name indices to be kept.

§ 103. He shall also keep name indices, the pages of which shall be divided into columns, showing in alphabetical order, first, the names of all registered owners and all other persons interested in or holding charges upon registered land; second, the nature of the interest; third, a brief description of the land; fourth, the volume; and fifth, the page of the register in which the lands are registered.

MISCELLANEOUS PROVISIONS.

Registered lands may be partitioned.

§ 104. An owner of an undivided interest in registered lands may bring an action for the partition thereof. A notice of such action shall, at the time of the commencement thereof, be filed with the registrar and a memorial entered by him upon the register. A certified copy of any judgment or decree rendered in pursuance of such action shall be filed with the registrar, who shall thereupon issue new certificates in accordance therewith.

Registration of adverse lien not conclusive of regularity of proceedings or instruments by which created.

§ 105. Whenever, under the provisions of this act, any interest in, or lien, encumbrance, or charge upon registered land, arises adversely to the registered owner without voluntary action by him, and not in pursuance of a judgment or decree of court, such registration shall not be conclusive of the regularity of any proceedings or instruments by means of which such interest, lien, encumbrance, or charge arose, or the validity of the same, and shall have no greater force and effect than would the recording, in case the land were not registered, of an instrument creating a similar interest, lien, encumbrance, or charge.

In case of fraud, rights and remedies the same as if land not under this act.

§ 106. In the case of fraud, any person defrauded shall have all rights and remedies that he would have had if the lands were not under the

provisions of this act; provided, that nothing contained in this section shall affect the title of a registered owner who has taken bona fide for a valuable consideration, or of any person bona fide claiming through or under him.

Clerk of court shall notify registrar of appeal.

§ 107. In case of an appeal from any proceeding under this act, or from any judgment, order, or decree affecting registered lands, the clerk of the court in which the notice of appeal is filed shall forthwith notify the registrar thereof, and thereupon the registrar shall enter upon the register a memorial of such appeal.

All fees collected by registrar to be paid to county treasurer and applied to expenses of administration of this act.

§ 108. All fees collected by the registrar under the provisions of this act shall be accounted for, paid, disbursed, and disposed of by him in the same manner that fees collected by him as county recorder are now or may hereafter be by law accounted for, paid, disbursed and disposed of. Should there be a surplus in any year, such surplus shall be carried into the general fund, and be subject to appropriation for any purpose. In case such fees shall not amount to the sum required for the administration of this act, the deficiency shall be paid from any funds in the treasury not otherwise appropriated.

Board of supervisors shall furnish registrar all necessary books, etc.

§ 109. All books, blanks, papers, and all things necessary for the purpose of carrying out the provisions of this act, shall be furnished by the board of supervisors, at the expense of the county.

The attorney general, state controller, and secretary of state to prepare forms.

§ 110. The attorney general, state controller, and secretary of state shall prepare a uniform system of books, blanks, and forms for the use of the public officers required to perform duties under this act, and such forms, and none other, shall be used by such officers.

PENALTIES.

Fraudulent procurement of certificate, a felony.

§ 111. Whoever fraudulently procures, assists in fraudulently procuring, or is privy to the fraudulent procurement of any certificate of title or other instrument, or of any entry in the register or other book kept in the registrar's office, or of any erasure or alteration in any entry in any said book, or in any instrument authorized by this act, or knowingly defrauds or is privy to defrauding any person by means of a false or fraudulent instrument, certificate, statement, or affidavit affecting registered land, shall be guilty of a felony, and fined not exceeding five thousand dollars, or be imprisoned not exceeding five years nor less than one year, or either, or both, in the discretion of the court.

Forgery of a seal, signature, or instrument in registrar's office, a felony.

§ 112. Whoever (1) forges, or procures to be forged, or assists in forging the seal of the registrar, or the name, signature, or handwriting of any officer of the registry office in cases where such officer is expressly or impliedly authorized to affix his signature; or (2) fraudulently stamps, or procures to be stamped, or assists in stamping any document with any forged seal of said registrar; or (3) forges, or procures to be forged, or assists in forging the name, signature, or handwriting of any person whomsoever to any instrument which is expressly or impliedly authorized to be signed by such person; or (4) uses any document upon which any impression, or part of the impression, of any seal of said registrar has been forged, knowing the same to have been forged, or any document, the signature to which has been forged, knowing the same to have been forged; or (5) swears falsely concerning any matter or procedure made and done in pursuance of this act, shall be guilty of a felony, and imprisoned not exceeding ten years, nor less than one year, or fined not exceeding five thousand dollars, or both fined and imprisoned, in the discretion of the court.

No proceeding or conviction under this act shall affect any remedy at law or in equity.

§ 113. No proceeding or conviction for any act hereby declared to be a misdemeanor or a felony shall affect any remedy which any person aggrieved or injured by such act may be entitled to at law or in equity against the person who has committed such act, or against his estate, or against the registrar, or upon his bond.

FEEES.

Fees same as in similar cases under present laws, except as provided herein.

§ 114. First—The fees, in respect of applications and proceedings under them prior to registration, shall be the same as in actions in the superior court.

Second—There shall be paid to the registrar:

For issuing a certificate of title, including one duplicate thereof, one dollar and fifty cents.

For each additional duplicate, fifty cents.

For registering each transfer, including the issue and registration of the new certificate, one dollar and fifty cents.

For entry of each memorial on the register, including the indorsement upon the duplicate certificates, one dollar.

For the cancellation of each certificate, memorial, or charge, twenty-five cents.

For each certificate showing condition of register, one dollar and fifty cents.

For filing any instrument, or for a certified copy of the register, or of any instrument or writing on file in his office, the same fees allowed by law to recorders for like services.

CONSTRUCTION.

Act to be liberally construed. Construction of similar legislation elsewhere, not adopted.

§ 115. This act shall be construed liberally so far as may be necessary for the purpose of effecting its general intent, but does not adopt by implication the construction of any similar legislation of other jurisdictions which this act may to any extent have followed.

Act to take effect July 1, 1897.

§ 116. This act shall take effect and be in force from and after the first day of July, eighteen hundred and ninety-seven.

TITLE 524.**TRADEMARKS.****ACT 4120.**

Concerning trademarks and trade names. [Stats. 1863, p. 155.]

Amended 1867-68, p. 423. Superseded by Penal Code, § 350, and Political Code, §§ 8196-8199.

ACT 4121.

To protect owners of bottles, boxes, siphons and kegs used in the sale of soda waters, mineral waters, porter, ale, cider, milk, beer, and other beverages, etc. [Stats. 1891, p. 217.]

Amended 1903, p. 83.

This act appears in full in Civil Code, Appendix, p. 832.

TITLE 525.**TRADING STAMPS.****ACT 4123.**

An act making it a misdemeanor to sell or exchange property under the representation, advertisement, notice or inducement that an unidentified, unknown, unselected, or chance prize, premium or premium gift, or that a stamp, trading stamp, coupon or other like device entitling the holder to receive such a prize, premium or premium gift, or that the redemption of such a stamp, trading stamp, coupon or other like device so given is to be a part of the transaction, or to sell or exchange any trading stamp, stamp, coupon, or other like device to aid such sale or exchange, as aforesaid, and providing a penalty therefor. [Approved March 7, 1905. Stats. 1905, p. 67.]

Unconstitutional: *Ex parte Drexel*, 147 Cal. 763.

TITLE 526.**TRAINING SHIP.****ACT 4125.**

To establish and maintain a training ship in the city and county of San Francisco. [Approved February 15, 1876. Stats. 1875-76, p. 54.]

Amended 1877-78, p. 233.

Training ship: See Act 3327.

TITLE 527.**TRAMROAD COMPANIES.****ACT 4130.**

Shasta County, providing for incorporation of tramroad companies in.
[Stats. 1871-72, p. 800.]

TITLE 528.**TREASURERS.****ACT 4133.**

An act to authorize the deposit of state moneys in banks in this state, and to repeal all acts or parts of acts in conflict with this act.
[Approved March 20, 1905. Stats. 1905, p. 323.]

Repealed 1907, p. 67. See Act 4134.

ACT 4134.

An act to authorize the deposit of state moneys in banks in this state, and to repeal all acts or parts of acts in conflict with this act.

[Approved February 28, 1907. Stats. 1907, p. 67.]

Deposit of state moneys in banks. Security. Interest. Amount. Expense of transporting moneys.

§1. All moneys in the state treasury belonging to the state not immediately required to meet current expenditures may be deposited by the state treasurer to the credit of the state in such state or national bank, or banks, in the state, as the treasurer, with the approval of the governor and state controller, shall select for the safekeeping of such deposits, and any sum so deposited shall be deemed to be in the state treasury; provided, that the bank or banks in which such money is deposited shall furnish security as hereinafter provided, and provided further, that such depositary bank or banks be selected from those agreeing to pay the highest rate of interest, not less than two per cent per annum, for such deposits, as may be determined by bids to be submitted at such times and in such manner, as the treasurer, with the approval of the governor and state controller, shall direct; provided, that not more than one-tenth of the aggregate amount of state moneys available for deposit and on deposit shall be deposited in any one bank, and provided further, that such deposit shall not exceed twenty-five per cent of the paid-up capital, exclusive of reserve and surplus, of any depositary bank. Any and all bids may be rejected by the treasurer, with the approval of the governor and state controller, and new bids asked for. The expense of transportation of moneys to and from the state treasury to such depositaries shall be borne by such depositaries. Said deposits, with interest thereon, shall be subject to withdrawal at any time upon the demand of the state treasurer, or upon presentation of a certificate of deposit properly indorsed.

Interest, when payable. School moneys.

§2. The interest to be paid by any such depositary bank shall be on the average daily balances of the state moneys kept on deposit there-

with, and shall be paid and credited to the state monthly on the first day of each and every month, and such interest shall accrue to the general fund of the state treasury; provided that if any moneys belonging to the state school fund or the state school land fund shall at any time be deposited under the provisions of this act, the interest received thereon shall be paid into the state school fund.

Security of funds deposited.

§ 3. For the security of the funds deposited by the state treasurer under the provisions of this act, there shall be deposited with the treasurer bonds of the United States, or of this state, or of any county, municipality or school district of this state, which bonds shall be approved by the governor, controller and treasurer, to an amount in value at least ten per cent in excess of the amount of the deposit with such bank or banks; and if in any case, or at any time, such bonds are not deemed satisfactory security to the governor, controller and treasurer, they may require such additional security as may be satisfactory to them. Said bonds or any part thereof may be withdrawn on the written consent of the governor, controller and treasurer; provided, that a sufficient amount of said bonds to secure said deposits shall always be kept in the treasury; and in the event that said bank or banks of deposit shall fail to pay such deposits or any part thereof on the demand of the state treasurer, or upon any presentation of a certificate of deposit properly indorsed, then it shall be the duty of the state treasurer to forthwith convert said bonds into money and to disburse the same according to law; provided, however, that he shall sell no bonds for less than their face value except at public sale after ten days' printed notice in some newspaper of general circulation published in the county where the sale is to take place.

Provisions of contract. Treasurer's annual statement to banks.

§ 4. The treasurer shall take from such depository or depositories a written contract, in duplicate setting forth the conditions and terms upon which the funds of the state are deposited therewith, one of which shall be filed with the controller. One provision of said contract shall be that each depository shall at the end of each month render to the treasurer a statement in duplicate showing the daily balances or amount of money of the state held by it during the month and the amount of the accrued interest thereon separately, one of which shall be filed by the treasurer with the controller. The treasurer shall annually on the first day of July furnish each depository bank with a statement showing the amount and description of the bonds on deposit with him by such bank to secure state deposits.

Indemnity bonds.

§ 5. The treasurer, with the approval of the governor and controller, shall, if in his judgment it shall appear necessary for the security of the state, require said banks of deposit to give an indemnity bond, the sureties on which shall not be interested as stockholders in said bank

or banks, to be approved by the governor, controller and treasurer, to secure the state against loss by any depreciation in value that may occur in such bonds held by him as security for the safekeeping and prompt payment of the state moneys in such depositaries.

Treasurer not responsible for deposits.

§ 6. The state treasurer shall not be responsible for any moneys deposited in a bank or in banks under the provisions of this act while the same remain there deposited with the consent of the governor and controller; but the treasurer shall be chargeable with the safekeeping, management and disbursement of the bonds and certificates of deposit deposited with him as security for deposits of state moneys, and with the interest thereon, and the proceeds of any sale under the provisions of this act.

Certificates of deposit. Warrants paid by certificates.

§ 7. At the time of depositing state moneys in any bank designated as a depositary the treasurer shall take a certificate or certificates of deposits made payable to the treasurer of state in such sum or sums as he shall deem advisable. Such certificate or certificates of deposit in the possession of the treasurer shall be deemed and counted as cash by the state board of examiners. Controller's warrants drawn upon the state treasury may be paid by such certificates of deposit when properly indorsed by the treasurer the same as in cash.

Act of 1905 repealed.

§ 8. The act of March 20, 1905, entitled "An act to authorize the deposit of state moneys in banks in this state, and to repeal all acts or parts of acts in conflict with this act," and all other acts or parts of acts in conflict with this act are hereby expressly repealed.

ACT 4135.

Relating to treasurers, their deputies and clerks, in counties and cities and counties having a population of two hundred thousand inhabitants or over. [Stats. 1893, p. 282.]

Superseded as to San Francisco by the charter of that city. This act appears in full in Political Code, Appendix, tit. "Treasurers," p. 1480.

ACT 4136.

Authorizing the state treasurer to pay controller's warrants drawn for the salaries of public officers who are entitled to monthly payments from the state. [Stats. 1873-74, p. 593.]

Codified by § 461 of Political Code.

ACT 4137.

For the better protection of the state treasury. [Stats. 1867-68, p. 554.]

This act authorized the state treasurer to employ two watchmen. The code commissioners say of it: "Doubtless superseded by § 457, Political Code, but nevertheless amended by statute of 1895, p. 55, c. LIV."

ACT 4138.

To provide an additional watchman for the state treasurer. [Stats. 1895, p. 55.]

"Purports to amend statute of 1868, p. 554, c. CDXXXI, which statute was, however, superseded by Political Code, § 457."—Code Commissioners' Note.

ACT 4139.

Increasing number of deputies for limited period. [Approved March 16, 1889. Stats. 1889, p. 303.]

Repealed March 26, 1895, Stats. 1895, p. 88.

TITLE 529.**TRESPASS.****ACT 4144.**

Preventing persons passing through inclosures and leaving them open, and tearing down fences to make passages through inclosures. [Stats. 1871-72, p. 384.]

See § 7, 1875-76, p. 408; 1877-78, pp. 49, 776.

Superseded by Penal Code, § 602, subd. 8.

Citations. Cal. 108/347.

TRESPASSING ANIMALS.

See "Estrays."

TITLE 530.**TRINITY COUNTY.****ACT 4149.**

Additional contingent fund for. [Stats. 1877-78, p. 184.]

Repealed by subd. 18, § 25, County Government Act, 1897, p. 468.

ACT 4150.

Providing for construction and maintenance of free bridges in. [Stats. 1873-74, p. 62.]

ACT 4151.

County clerk of, salary of. [Stats. 1873-74, p. 184.]

Repealed by County Government Acts: See 1897, p. 568, § 210.

ACT 4152.

Authorizing transcribing of records in. [Stats. 1862, p. 164.]

Amended 1863, p. 22.

ACT 4153.

Public schools of, employment of teachers in. [Stats. 1873-74, p. 472.]

Amended 1875-76, p. 122. Probably repealed by Political Code, § 1696, as amended 1893, p. 255.

ACT 4154.

Supervisors to fix and pay compensation of under-sheriff of. [Stats. 1873-74, p. 593.]

Superseded by County Government Acts: See 1897, p. 568, § 210.

ACT 4155.

Fixing salary of members of board of supervisors. [Stats. 1871-72, p. 380.]

Repealed by County Government Act, 1897, p. 568, § 210.

ACT 4156.

Supervisors to fix rate of tolls to be charged on wagon roads. [Stats. 1873-74, p. 607.]

See County Government Act, 1897, p. 452, § 25, subd. 26.

TITLE 531.**TRUSTS.****ACT 4161.**

To provide for the more certain execution of express trusts in case of the death of the last surviving trustee. [Stats. 1867-68, p. 170.]

Superseded by Civil Code, §§ 2287-2289.

ACT 4162.

An act to encourage and provide for the dissemination of a knowledge of the arts, sciences, and general literature, and the founding, maintaining, and perpetuating public libraries, museums, and galleries of art, and the receipt of donations and contributions thereto when established; for the conveyance, holding, and protection of real property within this state suitable for the purposes herein designated, and the erection thereon of buildings appropriate to such purposes, and for the creation of trusts necessary or proper for the better preservation of such institutions, and the control and management thereof.

[Approved March 5, 1887. Stats. 1887, p. 26.]

See post, Acts 4163, 4164, 4165.

Manner of conveying gifts for dissemination of knowledge of arts, etc.

§ 1. Any person intending in his lifetime or by will or trust deed, to operate after his death, to found, maintain, and perpetuate in this state a public library, museum, gallery of art, or any or all thereof, for the diffusion of mechanical, scientific, artistic, and general knowledge, may to that end and for such purpose, and for any purpose within the purview of the title of this act, convey in writing by words denoting a gift or grant to one or more trustees named in such gift or grant, and to their successors, any library or collection of books and works, for such public library, or any museum, or gallery of art in this state, and such

gift or grant may also express and shall be construed to be a conveyance of the future additions and accretions thereof; and he may also in like manner, to that end, and for such purpose, convey by grant to such trustee or trustees any real property within this state belonging to him, which may be necessary or proper for the erection and maintenance of buildings suitable to such institution, and the buildings erected thereon, with grounds, conveniently adjacent thereto, and other lands, tenements, and hereditaments for the purpose of producing an income for the support and maintenance of such institutions, or any of them, and any collateral burdens which may be imposed by the terms of such foundation as part and parcel of the regulations for its conduct, and also personal property of all descriptions, which may subserve the purposes of the institution and maintenance of any such library, museum, or gallery of art.

Gifts by other than founder.

§ 2. Any contributions or gifts by any other person than the founder, of any property suitable to the general plan or support of any institution mentioned in the title of this act, shall immediately vest in the trustees, and become incorporated into and subject to the trust, and to all its terms and conditions, and be managed under the rules and regulations prescribed therefor.

§ 3. The person making such gift, grant, or conveyance, as founder, may therein designate,—

1. The name by which the institution so founded and maintained shall be known.

2. Its nature, object, and purposes.

3. The powers and duties of the trustees, which shall not be exclusive of other powers and duties that, in their judgment, may be necessary more effectually to carry out the purposes of such institution.

4. The mode and manner and by whom the successors to the trustees named in the gift or grant shall be appointed.

5. Such rules and regulations for the management of such institution, and the furtherance of its purposes, as the grantor may elect to prescribe; but such rules and regulations shall, unless the grant shall otherwise prescribe, be deemed advisory only, and shall not preclude such trustees or their successors from making such changes as new conditions may, from time to time, require.

6. The place or places where the necessary buildings shall be erected, and the general character thereof. The person making such grant may therein provide for all other things necessary or proper to carry out the purposes thereof, or otherwise, by his last will or testament.

§ 4. The trustees named in such gift or grant, and their successors, may, in the name of such institution designated in the gift or grant, sue and defend in relation to the trust property, and to all matters affecting the institution so founded and established.

Privileges granted to founder.

§ 5. By a provision in such gift or grant, the founder may elect, in respect to the personal and real property conveyed, and the additions and increase thereof, and in respect to the erection, maintenance, and management of any buildings auxiliary thereto, and in respect to any property connected with such institution, to reserve to himself a veto and right of annulment or modification of any act of such trustees, in case he shall, within thirty days after notice of the performance of such act, file in the office of said trustees, or deliver to their president or principal officer, a notice in writing, of such veto, annulment, or modification, and upon a like notice, in conformity with a provision in such gift or grant, he may elect to perform during his life all the powers which, by the terms thereof, are vested in or enjoined upon the trustees therein named, and their successors; provided, that upon the death or disability to act of the founder and grantor, such powers and duties shall be devolved upon, and be exercised by, the trustees named in the gift or grant, and their successors. Such person may also reserve the right to alter, amend, or modify, at any time during his life, or by his last will and testament, the terms and conditions thereof, and the trust therein created in respect to such institution, its buildings, and the property conveyed therefor.

Election of officers and compensation.

§ 6. The founder shall have power in said deed of trust to name and describe the character and personality of any one or more of the immediate or future trustees, the librarian, and other officers, and to name and impose any particular duty to be performed by any one or more trustees or other officers so described and characterized, and to declare and limit any compensation, and fix the character and method of such compensation he may choose to provide for any such trustee or other officer whom the terms of his foundation may characterize, and upon whom specific or general duties shall be imposed.

Gift, how recorded.

§ 7. Any such gift or grant may be executed, acknowledged, and recorded in the manner now or hereafter provided by law for the execution, acknowledgment, and recording of grants of real property.

Time of commencing suit.

§ 8. No suit, action, or proceeding shall be commenced or maintained by any person to set aside, annul, or affect said gift, grant or conveyance, or to affect the title to the property conveyed, or the right to the possession or to the rents, issues, and profits thereof, unless the same be commenced within two years after the date of the filing of such grant for record.

Founder may bequeath to state of California.

§ 9. Any person, being the founder, making a gift or grant for any of the purposes mentioned in this act, may, at any time thereafter, by last

will or testament, devise or bequeath to the state of California all or any of the property, real, and personal, mentioned in such gift or grant, or in any such supplemental thereto, and such devise or bequest shall take effect in case, from any cause whatever, the gift or grant shall be annulled or set aside, or the trusts therein declared shall for any reason fail. Such devise or bequest is hereby suffered to be made by way of assurance that the intentions of the grantor shall be carried out, and in the faith that the state, in case it shall succeed to the property, or any part thereof, will, to the extent and value of such property carry out, in respect to the objects and purposes of any such grant, all the wishes and intentions of the grantor.

Liberal construction of provisions.

§ 10. The provisions of this act shall be liberally construed, with a view to effect its objects and purposes, and the singular number in the construction thereof shall be deemed to include the plural, and the plural number shall be deemed to include the singular.

Universities, colleges, schools, etc.

§ 11. Nothing in this act shall repeal, modify, change, or have any effect upon any of the provisions of an act of the legislature of the state of California entitled "An act to advance learning, the arts and sciences, and to promote the public welfare by providing for the conveyance, holding, and protection of property, and the creation of trusts for the founding, endowment, erection, and maintenance, within this state, of universities, colleges, schools, seminaries of learning, mechanical institutes, museums, and galleries of art," approved March ninth, eighteen hundred and eighty-five.

§ 12. This act shall take effect immediately.

ACT 4163.

An act to advance learning, the arts and sciences, and to promote the public welfare, by providing for the conveyance, holding, and protection of property, and the creation of trusts for the founding, endowment, erection, and maintenance within this state of universities, colleges, schools, seminaries of learning, mechanical institutes, museums, and galleries of art.

[Approved March 9, 1885. Stats. 1885, p. 49.]

Amended 1891, p. 454. Supplemented 1903, p. 140. See next act.
Citations. Cal. 118/184, 189.

Construction of act.

§ 1. The provisions of this act shall be liberally construed with a view to effect its objects and promote its purposes; and in the construction thereof the singular number shall be deemed to include the plural, and the plural shall be deemed to include the singular number, and the masculine gender shall be deemed to include the feminine.

Grant.

§ 2. Any person desiring in his lifetime to promote the public welfare by founding, endowing, and maintain[ing] within this state a university, college, school, seminary of learning, mechanical institute, museum, botanic garden, public park, or gallery of art, or any or all thereof, may, to the end and for such purpose, by grant in writing convey to a trustee, or any number of trustees, named in such grant (and to their successors), any property, real or personal, belonging to such person and situated or being within this state; provided, that if such person be married and the property be community property, then both husband and wife must join in such grant. [Amendment approved March 31, 1891. Stats. 1891, p. 454.]

Requisites.

§ 3. The person making such grant may therein designate:

1. The nature, object, and purposes of the institution or institutions to be founded, endowed, and maintained;
2. The name by which it or they shall be known;
3. The powers and duties of the trustees, and the manner in which they shall account, and to whom, if accounting be required; but such powers and duties shall not be held to be exclusive of other powers and duties which may be necessary to enable such trustees to fully carry out the objects of such grant;
4. The mode and manner, and by whom, the successors to the trustee or trustees named in the grant are to be appointed;
5. Such rules and regulations for the management of the property conveyed as the grantor may elect to prescribe; but such rules shall, unless the grantor otherwise prescribe, be deemed advisory only, and shall not preclude such trustees from making such changes as new conditions may from time to time require;
6. The place or places where and the time when the buildings necessary and proper for the institution or institutions shall be erected, and the character and extent thereof. The person making such grant may therein provide for all other things necessary and proper to carry out the purposes thereof, and especially may such person provide for the trades and professions which shall be taught in such institutions, and the terms upon which deserving scholars of the public and private schools of the various counties of this state may be admitted to all the privileges of such institutions, as a reward for meritorious conduct and good scholarship; and also for maintaining free scholarships for children of persons who have rendered service to or who have died in the service of this state; and also for maintaining free scholarships for children of mechanics, tradesmen, and laborers, who have died without leaving means sufficient to give such children a practical education, fitting them for the useful trades or arts; and also the terms and conditions upon which students in the public and private schools, and other deserving persons, may, without cost to themselves, attend the lectures of any university established; and also the terms and conditions upon which

the museums, and art galleries, and conservatories of music, connected with any such institution, shall be open to all deserving persons without charge, and without their becoming students of the institution.

Actions by trustees.

§ 4. The trustee or trustees named in such grant, and their successors, may, in the name of the institution or institutions, as designated in such grant, sue and defend, in relation to the trust property, and in relation to all matters affecting the institution or institutions endowed and established by such grant.

Grantor as trustee.

§ 5. The person making such grant, by a provision therein, may elect, in relation to the property conveyed, and in relation to the erection, maintenance, and management of such institution or institutions, to perform, during his life, all the duties and exercise all the powers which, by the terms of the grant, are enjoined upon and vested in the trustee or trustees named. If the person making such grant, and making the election aforesaid, be a married person, such person may further provide that if the wife of such person survive him, then such wife, during her life, may, in relation to the property conveyed, and in relation to the erection, maintenance, and management of such institution or institutions, perform all the duties and exercise all the powers which, by the terms of the grant, are enjoined upon and vested in the trustee and trustees therein named, and in all such cases the powers and duties conferred and imposed by such grant upon the trustee or trustees therein named shall be exercised and performed by the person making such grant, or by his wife, during his or her life, as the case may be; provided, however, that upon the death of such person, or his surviving wife, as the case may be, such powers and duties shall devolve upon and shall be exercised by the trustees named in the grant, and their successors.

Amending grant.

§ 6. The person making such grant may therein reserve the right to alter, amend, or modify the terms and conditions thereof, and the trusts therein created, in respect to any of the matters mentioned or referred to in subdivisions 1 to 6, inclusive, of section 3 hereof; and may also therein reserve the right, during the life of such person or persons, of absolute dominion over the personal property conveyed, and also over the rents, issues, and profits of the real property conveyed, without liability to account therefor in any manner whatever, and without any liability over against the estate of such person; and if any such person be married, such person may, in said grant, further provide that if his wife survive him, then such wife, during her life, may have the same absolute dominion over such personal property, and such rents, issues, and profits, without liability to account therefor in any manner whatever, and without liability over against the estate of either of the spouses.

Custody of minors.

§ 7. The person making such grant may therein provide that the trustees named in the grant, and their successors, may, in the name of

the institution or institutions, become the custodian of the person of minors, and when any such provision is made in a grant, the trustees and their successors may take such custody and control in the manner and for the time and in accordance with the provisions of sections 264 to 276, inclusive, of the Civil Code of the state of California.

Execution of grant.

§ 8. Any such grant may be executed, acknowledged, and recorded in the same manner as is now provided by law for the execution, acknowledgment, and recording of grants of real property.

Annulling suit.

§ 9. No suit, action, or proceeding shall be commenced or maintained by any person to set aside, annul, or affect said conveyance, or to affect the title to the property conveyed, or the right to the possession, or to the rents, issues, and profits thereof, unless the same be commenced within two years after the date of filing such grant for record; nor shall any defense be made to any suit, action, or proceedings commenced by the trustee or trustees named in said grant, or their successors, privies, or persons holding under them, which defense involves the legality of said grant, or affects the title to the property thereby conveyed, or the right to the possession, or the rents, issues, and profits thereof, unless such defense is made in a suit, action, or proceeding commenced within two years after such grant shall have been filed for record.

Exemption from execution.

§ 10. The property conveyed by such grant shall not, after a lapse of two years from the date of the filing for record of the grant, be subject to forced sale, under execution, or judicial proceedings of any kind, against the grantor or his privies, unless the action under which the execution shall be issued, or the proceedings under which the sale shall be ordered, shall have been commenced within two years after such grant shall have been filed for record. Nor shall such property be subject to execution or forced sale under any judgment obtained in any proceedings instituted within said two years, if there be other property of the grantor, subject to execution or forced sale sufficient to satisfy such judgment; provided, nothing in this section contained shall be construed to affect mechanics' or laborers' liens.

Bequest to state.

§ 11. Any person or persons making any such grant may, at any time thereafter, by last will or testament, devise and bequeath to the state of California all or any of the property, real and personal, mentioned in such grant, or in any supplemental grant, and such devise or bequest shall only take effect in case, from any cause whatever, the grant shall be annulled or set aside, or the trusts therein declared shall for any reason fail. Such devise and bequest is hereby permitted to be made by way of assurance that the wishes of the grantor or grantors shall be carried out, and in the faith that the state, in case it succeeds to the property, or any part thereof, will, to the extent and value of such

property, carry out, in respect to the objects and purposes of any such grant, all the wishes and intentions of the grantor or grantors; provided, that no wish, direction, act, or condition expressed, made, or given by any grantor or grantors, under or by virtue of this act, as to religious instruction to be given in such school, college, seminary, mechanical institute, museum, or gallery of art, or in respect to the exercise of religious belief, on the part of any pupil or pupils of such school or institution of learning, shall be binding upon the state; nor shall the state enforce, or permit to be enforced or carried out, any such wish, direction, act, or condition.

§ 12. This act shall be in force from and after its passage.

ACT 4164.

An act supplemental to an act entitled "An act to advance learning, the arts and sciences, and to promote the public welfare, by providing for the conveyance, holding, and protection of property, and the creation of trusts for the founding, endowment, erection, and maintenance within this state of universities, colleges, schools, seminaries of learning, mechanical institutes, museums, and galleries of art," approved March 9, 1885, concerning the resignation, relinquishment or surrender of rights, powers, privileges and duties reserved to or vesting in the founder or founders, surviving founder, or wife or widow of any founder, of any institution created or founded under or pursuant to said act, and concerning the assumption and exercise of powers and duties by the trustee or trustees of such institution.

[Approved March 13, 1903. Stats. 1903, p. 140.]

§ 1. The founder or founders, surviving founder, or wife or widow of any founder, of a university, college, school, seminary of learning, mechanical institute, museum, gallery of art, library or any other institution, or any or all thereof, founded under or pursuant to an act entitled "An act to advance learning, the arts and sciences, and to promote the public welfare, by providing for the conveyance, holding, and protection of property, and the creation of trusts for the founding, endowment, erection, and maintenance within this state of universities, colleges, schools, seminaries of learning, mechanical institutes, museums, and galleries of art," approved March 9, 1885, may, by an instrument in writing, resign, relinquish and surrender all the rights, powers, privileges and duties reserved to or vesting in such founder or founders, surviving founder, or wife or widow of such founder, over, in, or concerning any of the property granted or given to such institution or institutions, or over or concerning any such institution or institutions so founded, and thereupon all estates, rights, powers, privileges, trusts and duties which would otherwise vest in or devolve upon the trustee or trustees of the trusts and estates created for the founding, endowment and maintenance of any such institution or institutions upon the death of the person or persons so resigning, relinquishing and surrendering, by the terms of the

grant founding the institution or institutions, and amendments thereof, and by the terms of any grants, gifts, bequests, and devises supplementary thereto, or of any confirmatory grants, shall immediately vest in and devolve upon such trustee or trustees. Nothing herein contained shall prevent such person or persons so resigning, relinquishing and surrendering such rights, powers, privileges, or duties from thereafter becoming and serving as one of such trustees, or from becoming and serving as an officer of any board of such trustees.

§ 2. This act shall take effect and be in force from and after its passage.

ACT 4165.

An act to provide for proceedings for the ascertainment of the existence and terms of, and for the determination of the validity and legal effect of grants or other instruments creating, changing or affecting trusts and estates for the founding, endowment and maintenance of a university, college, school, seminary of learning, mechanical institute, museum, gallery of art, or library, or any other institution, or any or all thereof, under or pursuant to an act entitled "An act to advance learning, the arts and sciences, and to promote the public welfare, by providing for the conveyance, holding, and protection of property, and the creation of trusts for the founding, endowment, erection, and maintenance within this state of universities, colleges, schools, seminaries of learning, mechanical institutes, museums, and galleries of art," approved March 9, 1885, or under or pursuant to an act entitled "An act to encourage and provide for the dissemination of a knowledge of the arts, sciences, and general literature, and the founding, maintaining, and perpetuating public libraries, museums, and galleries of art, and the receipt of donations and contributions thereto when established; for the conveyance, holding and protection of real property within this state suitable for the purposes herein designated, and the erection thereon of buildings appropriate to such purposes, and for the creation of trusts necessary or proper for the better preservation of such institutions, and the control and management thereof," approved March 5, 1887.

[Approved February 10, 1903. Stats. 1903, p. 9.]

§ 1. The trustee or trustees of any trust or trusts heretofore or hereafter created for the founding, endowment and maintenance of a university, college, school, seminary of learning, mechanical institute, museum, gallery of art, library or other institution, or any or all thereof, under or pursuant to an act entitled "An act to advance learning, the arts and sciences, and to promote the public welfare, by providing for the conveyance, holding, and protection of property, and the creation of trusts for the founding, endowment, erection, and maintenance within this state of universities, colleges, schools, seminaries of learning, mechanical institutes, museums, and galleries of art," approved March 9, 1885, or under or pursuant to an act entitled "An act to encourage and

provide for the dissemination of a knowledge of the arts, sciences, and general literature, and the founding, maintaining, and perpetuating public libraries, museums, and galleries of art, and the receipt of donations and contributions thereto when established; for the conveyance, holding and protection of real property within this state suitable for the purposes herein designated, and the erection thereon of buildings appropriate to such purposes, and for the creation of trusts necessary or proper for the better preservation of such institutions, and the control and management thereof," approved March 5, 1887, may commence a special proceeding in and by which may be determined all questions of law and fact affecting the existence of, and the due and voluntary execution and delivery, and the terms, validity and legal effect of the grant or grants founding the same, and of all amendments or attempted amendments thereof, and of any supplemental grants or gifts, and of any confirmatory conveyances, of the founder or founders, or surviving founder, or wife or widow of any such founder; and in and by which may be determined all questions of law and fact affecting the due and voluntary execution and delivery, and the validity and legal effect, of any gift or grant made in general terms for the benefit of the institution or institutions, or of any department thereof, or of any gift or grant made in general terms for the benefit of the institution or institutions, or of any department thereof, upon the trusts provided for in the grant founding the institution or institutions, and amendments thereof and grants, bequests and devises supplementary thereto; and in and by which may be determined all questions bearing upon the passing to the trustee or trustees of the legal title to the properties, real and personal, conveyed or attempted to be conveyed, so far as such property or the proceeds thereof, or any property acquired in exchange therefor or with proceeds thereof, may be described in the petition herein provided for, and the interest or title of the trustee or trustees in or to any such property described in such petition; and in and by which may be determined all questions of law and fact affecting the due and voluntary execution and delivery, and the validity and legal effect, of any grant or surrender by any such founder or founders, surviving founder, or wife or widow of any founder, to, or in favor of, such trustee or trustees, of any rights, powers, privileges or duties reserved to or vesting in any such person or persons over or concerning any property described in the petition herein provided for, or over or concerning any such institution or institutions so founded, which would otherwise vest in or devolve upon such trustee or trustees upon the death of the person or persons so granting or surrendering the same, and of any relinquishment or release by the founder or founders, surviving founder, or wife or widow of any founder, of any other such rights, powers, privileges, or duties so reserved to or vesting in any such person or persons. To this end the trustee or trustees of any trust hereinbefore referred to, in the name of the institution or institutions so founded, or in the name of the trustee or trustees of such institution or institutions, or in the name of the board of trustees of such institution or institutions, may file, in the superior

court of the county in which the lands described in the founding grant or grants, or some lands described in the founding grant or grants, or some portion thereof, are situated, or, if no real estate has been granted as herein provided to such trustees, then in the county where the main part of any such institution or institutions is situated, a petition in writing, signed by counsel for such trustee or trustees, or by counsel for a majority thereof, which petition shall contain copies of all such grants, amendments, attempted amendments, supplemental grants, instruments of gift, confirmatory conveyances, and grants and instruments of surrender, relinquishment or release, hereinbefore mentioned or referred to, so far as known to such trustee or trustees; and the petition shall allege in general terms the due and voluntary execution and delivery, and the validity, of any and all of such instruments, copies of which are set out in the petition, and shall describe all property, real and personal, the legal title to which is held or claimed to be held by said trustee or trustees under or by virtue of any or all of such instruments, whether or not the same be the original property conveyed, the proceeds thereof, or re-invested proceeds; and the petition shall allege in general terms the estate or interest which the trustee or trustees have or claim in or to the property described; and the petition shall pray, in effect, that the court examine and determine all questions of law and fact affecting the due and voluntary execution and delivery, and the terms, validity and legal effect of all such instruments, copies of which are so set out in the petition; and that the court examine and determine all questions bearing upon the passing to the trustee or trustees, of the legal title to all the properties, real and personal, so conveyed or attempted to be conveyed, so far as the same or the proceeds thereof, or any property acquired in exchange therefor or with the proceeds thereof, may be described in said petition; and that the court examine and determine the interest or title of the trustee or trustees in or to any such property; and that it be established and determined that the trustee or trustees are rightfully vested with the legal title thereto.

§ 2. The court or judge shall fix the time for the hearing of said petition, and shall order the clerk of the court to post in at least three public places in the county a notice of the filing of said petition, attached to a copy of said petition, and order a copy of such notice together with a copy of the petition to be personally served upon the founder or founders, if living, and upon the surviving wife or widow of any founder, and upon any living grantor or donor of any other grant or gift set out in the petition, and may order such other or further notice to be given as the judge or court may deem proper. Such notice shall be posted and served at least ten days before the hearing. If the court or judge finds upon the hearing that due and proper notice has not been given as herein provided, it shall reset the hearing and cause such due and proper notice to be given. The notice and petition shall be entitled substantially in the following form:

In the superior court of the ——— county of ———, state of Cal

In the matter of the petition of ——— (giving the name or name which the petition is brought) for the ascertainment of the exact and terms of, and for the determination of the validity and legal effect of grants or other instruments creating, changing or affecting trust estates for the founding, endowment and maintenance of ——— (naming the institution or institutions founded).

The notice shall state the time and place fixed for the hearing of the petition and shall be addressed to the founder or founders, living or to the surviving wife or widow of any founder, and the living grantor or donor of any other grant or gift set out in the petition, and in general terms to all other persons having or claiming any interest in, or rights, powers, or duties over or concerning the property described in the petition; and shall direct that they and each of such persons appear and answer said petition on or before the time set for said hearing; and shall state that unless said persons so appear and demur or answer, the petitioners will apply to the court to grant the prayer of the petition and that each person failing to so appear and answer, shall be deemed to admit as true all the material allegations of the petition.

Any of the persons so required to be served, or any other persons interested may waive notice by written waiver filed with the clerk of the court.

§ 3. Any person interested in the determination of any of the questions presented by the petition may demur to or answer said petition and may set up any new matter affecting the determination of any such question. Any allegation of the petition or answer may be made upon information and belief. The provisions of the Code of Civil Procedure respecting the demurrer and the answer to a verified complaint, shall be applicable to the demurrer or answer to said petition. The persons so demurring to or answering said petition shall be the defendants to said special proceeding and the petitioners shall be the plaintiffs. Every material statement in the petition not specifically controverted by the answer must, for the purposes of said special proceeding, be taken as true; and each person failing to answer the petition shall be deemed to admit as true all the material allegations of the petition. The rules of pleading and practice provided for by the Code of Civil Procedure, which are not inconsistent with the provisions of this act, are applicable to the special proceeding herein provided for.

§ 4. Upon the hearing of such special proceeding, the court shall have power and jurisdiction to examine into and determine all questions of law and fact within the scope of the proceeding herein provided for, whether presented by the petition or answer, or by the proofs upon the hearing.

The court shall find and determine whether the notice of the filing of said petition has been duly given for the time and in the manner in this act prescribed.

The costs of the special proceeding may be allowed and apportioned between all parties, in the discretion of the court.

§5. A certified copy of the judgment of the court in such special proceeding shall be recorded in the office of the recorder of the county in which the action is brought and in the office of the recorder of every county in which any of the real property affected is situated.

§6. The judgment of the court in such special proceeding shall be determinative of the terms and trusts upon which any property thereafter given for the benefit of such institution or institutions, or any department thereof, shall be held by such trustee or trustees, unless otherwise provided by the grantor or donor of such property.

§7. This act shall take effect and be in force from and after its passage.

ACT 4166.

An act to define trust and to provide for criminal penalties and civil damages, and punishment of corporations, persons, firms, and associations, or persons connected with them, and to promote free competition in commerce and all classes of business in this state.

[Approved March 23, 1907. Stats. 1907, p. 984.]

Amended 1909, p. 593.

A trust defined. Exception.

§1. A trust is a combination of capital, skill or acts by two or more persons, firms, partnerships, corporations or associations of persons, or of any two or more of them for either, any or all of the following purposes:

1. To create or carry out restrictions in trade or commerce.
2. To limit or reduce the production, or increase the price of merchandise or of any commodity.
3. To prevent competition in manufacturing, making, transportation, sale or purchase of merchandise, produce or any commodity.
4. To fix at any standard or figure, whereby its price to the public or consumer shall be in any manner controlled or established, any article or commodity of merchandise, produce or commerce intended for sale, barter, use or consumption in this state.
5. To make or enter into or execute or carry out any contracts, obligations or agreements of any kind or description, by which they shall bind or have bound themselves not to sell, dispose of or transport any article or any commodity or any article of trade, use, merchandise, commerce or consumption below a common standard figure, or fixed value, or by which they shall agree in any manner to keep the price of such article, commodity or transportation at a fixed or graduated figure, or by which they shall in any manner establish or settle the price of any article, commodity or transportation between them or themselves and others, so as to directly or indirectly preclude a free and unrestricted competition among themselves, or any purchasers or consumers in the sale or trans-

portation of any such article or commodity, or by which they shall agree to pool, combine or directly or indirectly unite any interests that they may have connected with the sale or transportation of any such article or commodity, that its price might in any manner be affected. Every such trust as is defined herein is declared to be unlawful, against public policy and void, provided that no agreement, combination or association shall be deemed to be unlawful or within the provisions of this act, the object and business of which are to conduct its operations at a reasonable profit or to market at a reasonable profit those products which cannot otherwise be so marketed, provided further, that it shall not be deemed to be unlawful, or within the provisions of this act, for persons, firms, or corporations, engaged in the business of selling or manufacturing commodities of a similar or like character, to employ, form, organize or own any interest in any association, firm or corporation, having as its object or purpose the transportation, marketing or delivery of such commodities. [Amendment approved March 20, 1909. Stats. 1909, p. 593. In effect immediately.]

Violation of act.

§ 2. For a violation of any of the provisions of this act by any corporation or association mentioned herein, it shall be the duty of the attorney general or the district attorney of the proper county, to institute proper suits or quo warranto proceedings in any court of competent jurisdiction for the forfeiture of its charter rights, franchises or privileges and powers exercised by such corporation or association, and for the dissolution of the same under the general statutes of the state.

Agreements permitted.

§ 2½. It shall be lawful to enter into agreements or form associations or combinations, the purpose and effect of which shall be to promote, encourage or increase competition in any trade or industry, or which are in furtherance of trade. [New section approved March 20, 1909. Stats. 1909, p. 594. In effect immediately.]

Foreign corporations amenable. Duty of secretary of state.

§ 3. Every foreign corporation, as well as every foreign association, exercising any of the powers, franchises or functions of a corporation in this state, violating any of the provisions of this act, is hereby denied the right and prohibited from doing any business in this state, and it shall be the duty of the attorney general to enforce this provision by bringing proper proceedings by injunction or otherwise. The secretary of state shall be authorized to revoke the license of any such corporation or association heretofore authorized by him to do business in this state.

Penalty for violation of act.

§ 4. Any violation of either or all of the provisions of this act shall be and is hereby declared a conspiracy against trade, and any person who may become engaged in any such conspiracy or take part therein, or aid or advise in its commission, or who shall as principal, manager, director,

agent, servant or employee, or in any other capacity, knowingly carry out any of the stipulations, purposes, prices, rates, or furnish any information to assist in carrying out such purposes, or orders thereunder or in pursuance thereof, shall be punished by a fine of not less than fifty (\$50) dollars nor more than five thousand (\$5,000) dollars, or be imprisoned not less than six months nor more than one year, or by both such fine and imprisonment. Each day's violation of this provision shall constitute a separate offense.

What indictment must set out.

§ 5. In any indictment, information or complaint for any offense named in this act, it is sufficient to state the purpose or effects of the trust or combination, and that the accused is a member of, acted with or in pursuance of it, or aided or assisted in carrying out its purposes, without giving its name or description, or how, when and where it was created.

Prosecutions, what to prove. Books and papers must be produced when ordered.

§ 6. In prosecutions under this act, it shall be sufficient to prove that a trust or combination, as defined herein, exists, and that the defendant belonged to it, or acted for or in connection with it, without proving all the members belonged to it, or proving or producing any article of agreement, or any written instrument on which it may have been based; or that it was evidenced by any written instrument at all. The character of the trust or combination alleged may be established by proof of its general reputation as such. In case any court of record, or in vacation any judge of said court in which is pending any civil, criminal or other action or proceeding brought or prosecuted by the attorney general or any district attorney for the violation of any of the provisions of this act or in any action or proceeding for the violation of the law of this state, against conspiracy or combination in restraint of trade so orders, no person so ordered shall be excused from attending, testifying or producing books, papers, schedules, contracts, agreements or any other document in obedience to the subpoena or under the order of such court or any commissioner or referee appointed by said court to take testimony or any notary public or other person or officer authorized by the laws of this state to take depositions when the order made by such court or judge thereof includes a witness whose deposition is being taken before such notary public or other officer on the ground or for the reason that the testimony or evidence required of him may tend to criminate him or subject him to any penalty; but no individual shall be prosecuted or subjected to any penalty for or on account of any transaction, matter or thing concerning which he may so testify or produce evidence, documentary or otherwise, before any such court, person or officer.

Penalty, after notice by attorney general.

§ 7. Each and every firm, person, partnership, corporation, or association of persons, who shall in any manner violate any of the provisions

of this act, shall be for each and every day that such violations shall be committed or continued, after due notice given by the attorney general or any district attorney, forfeit and pay the sum of fifty (\$50) dollars, which may be recovered in the name of the people of the state of California, in any county where the offense is committed, or where either of the offenders resides; and it shall be the duty of the attorney general, or the district attorney of any county on the order of the attorney general to prosecute for the recovery of the same. When the action is prosecuted by the attorney general against a corporation or association of persons, he may begin the action in the supreme court of the county in which defendant resides or does business.

Contracts in violation of act void.

§ 8. That any contract or agreement in violation of the provisions of this act, shall be absolutely void and shall not be enforceable either in law or equity.

Provisions cumulative.

§ 9. That the provisions hereof shall be held cumulative of each other and of all other laws in any way affecting them now in force in this state.

Trust certificates not lawful.

§ 10. It shall not be lawful for any person, partnership, association or corporation, or any agent thereof, to issue or to own trust certificates, or for any person, partnership, association or corporation, agent, officer, or employee, or the directors or stockholders of any corporation, to enter into any combination, contract or agreement with any person or persons, corporation, or corporations, or with any stockholder or director thereof, the purpose and effect of which combination, contract or agreement shall be to place the management or control of such combination or combinations, or the manufactured product thereof, in the hands of any trustee or trustees with the intent to limit or fix the price or lessen the production and sale of any article of commerce, use or consumption, or to prevent, restrict or diminish the manufacture or output of any such article, and any person, partnership, association or corporation that shall enter into any such combination, contract or agreement for the purpose aforesaid shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine not less than fifty dollars, nor more than five thousand dollars.

Persons injured in business by trust may sue.

§ 11. In addition to the criminal and civil penalties herein provided, any person who shall be injured in his business or property by any other person or corporation or association or partnership, by reason of anything forbidden or declared to be unlawful by this act, may sue therefor in any court having jurisdiction thereof in the county where the defendant resides or is found, or any agent resides or is found, or where service may be obtained, without respect to the amount in controversy, and to recover twofold the damages by him sustained, and the costs of suit. Whenever it shall appear to the court before which any proceed-

ings under this act may be pending, that the ends of justice require that other parties shall be brought before the court, the court may cause them to be made parties defendant and summoned, whether they reside in the county where such action is pending, or not.

"Person" defined.

§ 12. The word "person" or "persons" whenever used in this act, shall be deemed to include corporations, partnerships and associations existing under or authorized by the laws of this state or any other state, or any foreign country.

Labor not a commodity.

§ 13. Labor whether skilled or unskilled is not a commodity within the meaning of this act. [New section approved March 20, 1909. Stats. 1909, p. 594. In effect immediately.]

TITLE 532.

TULARE COUNTY.

ACT 4170.

Assessors, act fixing salary and bond of. [Stats. 1875-76, p. 172.]

Superseded by County Government Acts: See 1897, pp. 521, 535, §§ 170, 182.

ACT 4171.

Board of health, establishing. [Stats. 1877-78, p. 558.]

Superseded by subd. 20, § 25, County Government Act, 1897, p. 464.

ACT 4172.

County auditor and county recorder, separation of offices of, and regulation of official salaries in. [Stats. 1875-76, p. 151.]

Amended 1875-76, p. 363; 1877-78, p. 104. Repealed by County Government Acts: See 1897, p. 535, § 170.

ACT 4173.

Separating offices of county recorder and county clerk. [Stats. 1873-74, p. 60.]

Repealed by County Government Act, 1897, p. 478, § 55.

ACT 4174.

Public roads in. [Stats. 1873-74, p. 283.]

Amended 1875-76, p. 11. Repealed 1875-76, p. 531.

ACT 4175.

Making applicable to of act of February 21, 1872, p. 141, regulating the traveling fees of sheriff. [Stats. 1873-74, p. 45.]

Repealed 1877-78, p. 560.

ACT 4176.

Traveling fees of sheriff of. [Stats. 1877-78, p. 559.]

Repealed by fee bill of 1895, p. 269.

ACT 4177.

To increase the number of superior judges. [Stats. 1891, p. 61.]

ACT 4178.

To reduce the number of judges of the superior court. [Stats. 1895, p. 128.]

ACT 4179.

Tax collector, bonds of. [Stats. 1875-76, p. 16.]

Repealed by County Government Act, 1897, p. 475, § 66.

ACT 4180.

Concerning water ditches and water privileges for agricultural and manufacturing purposes in Tulare County. [Stats. 1867-68, p. 112.]

ACT 4181.

Concerning water ditches and water privileges in, for irrigating, mining and manufacturing purposes. [Stats. 1875-76, p. 547.]

TITLE 533.

TUOLUMNE COUNTY.

ACT 4186.

Lawful fences in. [Stats. 1863-64, p. 475.]

ACT 4187.

To provide for care and maintenance of indigent sick of. [Stats. 1877-78, p. 596.]

Superseded by subd. 5, § 25, County Government Act, 1897, p. 458.

ACT 4188.

Township officers, regulating. [Stats. 1873-74, p. 453.]

Repealed by County Government Acts: See 1897, p. 474, § 56; also Code of Civil Procedure, § 103.

ACT 4189.

Salaries of certain officers of. [Stats. 1875-76, p. 45.]

Repealed by County Government Acts: See 1897, p. 556, § 197.

ACT 4190.

Supervisors, prescribing commencement of terms. [Stats. 1873-74, p. 154.]

Repealed by County Government Act, 1897, p. 452.

ACT 4191.

Treasurers of, bonds of. [Stats. 1875-76, p. 17.]

Repealed by County Government Acts: See 1897, p. 475, § 66.

TITLE 534.**TUOLUMNE RIVER.****ACT 4196.**

Authorizing the construction of a bridge across the Tuolumne River at Modesto. [Stats. 1877-78, p. 455.]

ACT 4197.

To declare the head of navigation in. [Stats. 1854, p. 203.]

See Political Code, § 2349.

TITLE 535.**TURNPIKE CORPORATIONS.****ACT 4202.**

To authorize formation of plank or turnpike road corporations. [Stats. 1857, p. 171.]

Repealed by Civil Code, § 288.

TITLE 536.**UKIAH.****ACT 4207.**

Incorporation of. [Stats. 1875-76, p. 162.]

Superseded by incorporation, in 1886, under Municipal Government Act of 1888.

UNINCORPORATED ASSOCIATIONS.

See "Benefit Societies"; "Board of Trade"; "Chambers of Commerce"; "Co-operative Associations"; "Mechanics' Institutes."

TITLE 537.**UNION.****ACT 4209.**

Incorporating town of Union. [Stats. 1858, p. 7.]

Amended 1869-70, p. 414; 1873-74, p. 280.

This is now Arcata, Stats. 1860, p. 109.

TITLE 538.**UNITED STATES.****ACT 4212.**

Giving the consent of the legislature of the state to the purchase by the United States of land within this state for public purposes. [Stats. 1852, p. 149.]

Superseded by Political Code, § 34.

ACT 4213.

Granting right of way to the United States for railroad from Atlantic to Pacific. [Stats. 1852, p. 150.]

ACT 4214.

Providing for the relinquishment to the United States of lands required for military or naval purposes. [Stats. 1859, p. 26.]

University to control fund absolutely.

§4. The money paid into the said "state university fund" is hereby appropriated, without reference to fiscal years, for the use and support of the University of California, and is exempted from the provisions of Part III, Title I, Article XVIII, of an act entitled "An act to establish a Political Code," approved March twelfth, eighteen hundred and seventy-two, relating to the board of examiners. When there is any money in the said fund, the same may be drawn out upon the order of the board of regents of the University of California, or such officers of the board as may be duly authorized thereto. Upon the receipt of the order, the controller must draw his warrant upon the state treasurer, payable to the order of the treasurer of the University of California, out of the said "state university fund."

How moneys must be applied.

§5. The money derived from said fund must be applied only to the support and permanent improvement of the university; provided, however, that not less than one-fourth of the revenues raised hereunder, during each of the first ten fiscal years after this act takes effect, shall be placed in a fund to be known and designated as the permanent building fund and which said fund must be devoted solely to the purposes of building, furnishing and equipping permanent buildings and providing permanent improvements for the university. The board of regents must include in its biennial report to the governor the statement of the manner and for what purposes all of the moneys referred to and raised under this act were expended.

Certain acts repealed.

§6. An act approved February 14, 1887, entitled: "An act to provide for the permanent support and improvement of the University of California by the levy of a rate of taxation and the creation of a fund therefor," is hereby repealed.

Same.

§7. An act approved February 27, 1897, entitled "An act to provide additional support and maintenance, and for the acquisition of necessary property and improvements of the University of California, by the levy of a rate of taxation, and the creation of a fund therefor," is hereby repealed.

§8. This act shall take effect immediately.

ACT 4245.

To provide a continuous appropriation for the support and maintenance of the University of California, to be an item of the general appropriation bill. [Approved March 15, 1901. Stats. 1901, p. 307.]

This act appropriated the sum of \$200,000 biennially.

ACT 4246.

To grant to the regents of the University of California the north one-half of section sixteen, township seven south, of range three east, Mount Diablo meridian, and authorize the exchange thereof. [Approved March 16, 1889. Stats. 1889, p. 229.]

ACT 4247.

To appropriate money to reimburse the university for moneys heretofore appropriated to the endowment fund, which moneys have been by mistake withheld therefrom and appropriated to other state purposes. [Stats. 1881, p. 51.]

Repealed 1893, p. 77: See 1899, p. 93.

ACT 4248.

Appropriations for the benefit of. [Stats. 1901, p. 110.]

This act appropriated \$50,000 to supply a loss in the permanent fund to supply a loss through a mortgage made to one William O. Turner.

ACT 4249.

To provide for the better control of the funds of, and for the investment and security of the same. [Stats. 1883, p. 54.]

Citations. Cal. 66/608, 69/216.

Unconstitutional: People v. Kewan, 69 Cal. 215.

ACT 4250.

To authorize the insurance of all property of the University of California held for purposes of income against damages or loss. [Approved March 20, 1899. Stats. 1899, p. 152.]

ACT 4251.

Concerning the selection and sale of university lands. [Stats. 1873-74, p. 356.]

Amended 1880, p. 36.

This act also related to the determination of land contests.

ACT 4252.

An act authorizing the regents of the University of California to hold farmers' institutes, and making an appropriation therefor. [Approved April 14, 1909. Stats. 1909, p. 868.]

See also former acts in this subject in Stats. 1903, p. 205; 1905, p. 255; amended 1907, p. 176.

ACT 4253.

Intoxicating liquors, prohibiting sale of within two miles of. [Stats. 1873-74, p. 12.]

Codified by § 172 of Penal Code: See note to § 172, Penal Code.

ACT 4254.

Appropriating two hundred and fifty thousand dollars for the erection of buildings for the use of affiliated and other departments of the University of California. [Stats. 1895, p. 69.]

ACT 4255.

To appropriate one hundred and twenty-five thousand dollars for the erection of buildings for the use of affiliated and other departments of the University of California, in San Francisco. [Approved February 23, 1897. Stats. 1897, p. 14.]

ACT 4256.

Concerning the medical department of. [Stats. 1881, p. 24.]

ACT 4256a.

An act authorizing the board of regents of the University of California to exchange the tract of land now constituting the Santa Monica Forestry Station. [Approved March 20, 1905. Stats. 1905, p. 369.]

ACT 4257.

An act to create a department of music in the university of the State of California; to provide a professorship of music and to appropriate money therefor. [Approved March 22, 1905. Stats. 1905, p. 801.]

ACT 4258.

An act providing for the establishment and maintenance of a pathological laboratory, for the investigation of tree and plant diseases and pests, and branch agricultural experiment station, and making an appropriation therefor. [Approved March 18, 1905. Stats. 1905, p. 249.]

ACT 4259.

An act to provide for experiment and research work in viticulture, directing publication of the results of experiments and investigations, making an appropriation therefor and prescribing the duties of the controller and treasurer in relation thereto. [Approved April 14, 1909. Stats. 1909, p. 866.]

ACT 4260.

An act to establish and maintain a state hygienic laboratory for bacteriological and chemical analysis for the use of the state board of health, providing for the appointment of a director thereof, and assistants; making an appropriation therefor and prescribing the duties of the state controller and state treasurer in relation thereto. [Approved March 18, 1905. Stats. 1905, p. 209.]

ACT 4261.

An act providing for the purchase of a university farm for the use of the college of agriculture of the University of California; providing for the appointment of a commission to select and purchase said

farm, providing for a school of agriculture and a system of instruction on said farm and appropriating money therefor. [Approved March 18, 1905. Stats. 1905, p. 131.]

See also Act of 1907, p. 58, appropriating \$182,000 for buildings, implements, etc., for the University farm.

ACT 4262.

An act making an appropriation for the investigation of agricultural and horticultural problems and conditions in Imperial County, and providing for the establishment in said county of a branch agricultural and experiment station for the purpose of prosecuting said work. [Approved April 14, 1909. Stats. 1909, p. 865.]

ACT 4263.

An act to appropriate the sum of one hundred and one thousand three hundred and fourteen dollars (\$101,314) for the use and benefit of the University of California, and specifying the duties of the controller and treasurer of state in relation thereto. [Approved April 14, 1909. Stats. 1909, p. 862.]

This appropriation was made to replace and restore income of University lost through disaster and fire.

TITLE 543.

VAGRANCY.

ACT 4264.

To punish vagrants, vagabonds and dangerous and suspicious persons. [Stats. 1855, p. 217.]

Amended 1856, p. 82; 1868, p. 1770. Superseded by Penal Code, § 647.

TITLE 544.

VALLEJO.

ACT 4265.

Charter of. [Stats. 1899, p. 370.]

Amended Stats. 1907, p. 1245.

Citations. Cal. 189/168; 146/897.

ACT 4266.

To incorporate the town of Vallejo. [Stats. 1865-66, p. 431.]

Superseded by the charter, Stats. 1899, p. 370.

ACT 4267.

To incorporate. [Stats. 1871-72, p. 566.]

Amended 1871-72, p. 757; 1873-74, pp. 860, 881; 1875-76, p. 25; 1877-78, p. 898. Superseded by charter of Vallejo, 1899, p. 370.

ACT 4268.

Vallejo township, board of education, establishing. [Stats. 1873-74, p. 160.]

Amended 1875-76, p. 9.

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The code commissioners say of this act: "But if the city of Vallejo is a part thereof, this statute is modified or repealed by the charter of that city, 1899, p. 370."

TITLE 545.

VENTURA COUNTY.

ACT 4273.

Creating and establishing boundaries of. [Stats. 1871-72, p. 484.]
Amended 1878-74, p. 865, § 4. Section 15 repealed by Political Code, § 791.

ACT 4274.

Legal distances, defining. [Stats. 1873-74, p. 21.]
Repealed by Political Code, § 205.

ACT 4275.

Fixing salaries of certain officers of. [Stats. 1873-74, p. 618.]
Repealed as to county judges by the constitution of 1879, and as to the other offices by the County Government Acts: See 1897, p. 452.

ACT 4276.

Bonds of officers of. [Stats. 1877-78, p. 334.]
Repealed by County Government Acts: See 1897, p. 475, § 66.

TITLE 546.

VETERANS' HOME.

ACT 4281.

To provide for the erection of a modern hospital for the Veterans' Home located at Yountville. [Stats. 1901, p. 823.]

ACT 4282.

To recognize the Veterans' Home at Yountville as a state home for the maintenance of disabled soldiers and sailors of the United States and to designate an officer to receive money appropriated by the United States on account of said home. [Stats. 1889, p. 418.]
Citations. App. 8/532, 534.

ACT 4283.

To accept from the Veterans' Home Association the conveyance of, and to vest the title in the state of California, to the tract of land in Napa County known as the Veterans' Home, with the improvements and furnishings thereon, to make the same a state home for United States soldiers, sailors, and marines, and to provide for the government thereof by the state. [Approved March 11, 1897. Stats. 1897, p. 106.]
Amended 1903, p. 321; 1905, p. 471; 1907, pp. 59, 280.

ACT 4284.

Authorizing associated veterans of Mexican war to exchange or lease lands. [Stats. 1871-72, p. 363.]
Amended 1881, p. 66.

ACT 4285.

To authorize directors of the Veterans' Home Association to exchange certain lands in San Francisco for certain other property belonging to said city and county or for a lease of said property. [Stats. 1891, p. 184.]

ACT 4286.

Appropriation for support of indigent persons residing in Veterans' Home. [Stats. 1883, p. 55.]

Amended 1887, p. 6; 1893, p. 214; 1899, p. 147; 1901, p. 275; 1905, p. 191; 1907, p. 193. The amendatory act of 1907 was also repealed 1909, p. 79.

ACT 4287.

To enable any county, city and county, city or town to lease property to any association of veteran soldiers, sailors, or marines. [Stats. 1897, p. 113.]

ACT 4288.

Authorizing the state treasurer to pay over to the treasurer of the Veterans' Home Association moneys received by him under an act of Congress. [Stats. 1895, p. 26.]

ACT 4289.

An act to authorize and provide for the transfer of the Veterans' Home of California, its property, management, control and support to the government of the United States, its officers and authorities, to be conducted as a national home under such laws as now exist or which may hereafter be enacted by Congress; and for the conveying of the property of said home, both real and personal, belonging to the state of California, situate in Napa County, to the government of the United States, for such purpose. [Approved March 20, 1905. Stats. 1905, p. 495.]

ACT 4290.

An act authorizing the directors of the Veterans' Home of California to purchase and take over, for the state of California, to be used, and controlled by said board in the interests of the Veterans' Home of California, a certain piece of land adjoining the premises of the said Veterans' Home of California in the county of Napa, and appropriating the sum of three thousand dollars to pay for the purchase of the same. [Approved March 18, 1905. Stats. 1905, p. 167.]

TITLE 547.**VETERINARY SURGERY.****ACT 4293.**

An act entitled an act to regulate the practice of veterinary medicine and surgery in the state of California. [Approved March 23, 1893. Stats. 1893, p. 286.]

Amended 1903, p. 258.

The title of the next act states that this act is repealed, but there is no mention of this act in the body of Act 4294 beyond a general reference to it.

ACT 4294.

An act to insure the better education of practitioners of veterinary medicine, and to regulate the practice of veterinary medicine in the state of California, to provide for the creation of a board of five members who shall act under and in accordance with the provisions of this act; to provide for their appointment, and define their powers, duties and compensation; to define offenses committed by acts done contrary to the provisions of this act, and providing penalties for the violation thereof; providing for the revocation or suspension, in certain cases, of licenses issued hereunder, and to repeal an act entitled "An act to regulate the practice of veterinary medicine and surgery in the state of California," approved March 23, 1893, amended and approved March 20, 1903, and all other laws in conflict herewith.

[Approved March 23, 1907. Stats. 1907, p. 919.]

Board of examiners in veterinary medicine. Term of office. Removals.

§ 1. That there be, and is hereby, created a board of examiners in veterinary medicine, to be appointed by the governor of the state of California, which shall consist of five reputable practitioners of veterinary medicine who shall have graduated from some college authorized by law to confer degrees, each of whom shall have been a bona fide resident of said state for three years last past before appointment, and each, during said period, shall have been actually engaged in the practice of his profession in said state. The appointments first made shall be one for one year, one for two years, one for three years, and two for four years, and thereafter appointments shall be made for a period of four years, except appointments to fill vacancies, in which case the appointments shall be made for the remainder of the unexpired terms; provided, that the governor may, in his judgment, remove any member of said board for neglect of duty or other sufficient cause, after due notice and hearing.

Organization of board. Official records. Bonds of officers.

§ 2. That the said board of examiners in veterinary medicine shall elect a president, vice-president, secretary, and such other officers as shall be necessary. The secretary of said board shall have power to administer oaths or affirmations upon such matters as pertain to the business of said board, and any person willfully making any false oath or affirmation shall be deemed guilty of perjury; and said board shall make, alter, or amend, subject to the approval of the governor, such rules and regulations as may be necessary to carry into effect the provisions of this act, and shall hold such meetings as shall be necessary for the transaction of business, and shall issue all licenses to practice veterinary medicine in the state of California. Said board shall keep an official record of its meetings, and also an official register of all applicants for licenses, which register shall show the name, age, place, and duration of residence of each applicant, the time spent in the study of veterinary medicine in and out of medical schools, and the names and locations of

all medical schools which have granted said applicant any degree or certificate of attendance upon lectures, and it shall also show whether said applicant was rejected or licensed under this act, and said register shall be prima facie evidence of all matters contained therein. The board shall have the power to require any or all officers of said board to give a bond to the state of California in such form and penalty as it may deem proper. The said board shall in the month of July in each year submit to the governor a full report of its transactions during the twelve months immediately preceding.

Applications for license to practice. Application fee. Examinations.

§ 3. That from and after the passage of this act all persons desiring to practice veterinary medicine or any branch thereof in the state of California, or who shall desire to hold themselves out to the public as practicing veterinary medicine or any branch thereof in the state of California, shall make application to said board of examiners in veterinary medicine for a license so to do. Application for this purpose shall be upon a form furnished by said board, and shall be accompanied by satisfactory evidence of good moral character, and by a diploma from some veterinary college authorized by law to confer the same, which college shall require at least two sessions of study of veterinary medicine of not less than six months each prior to the issue of such diploma, and graduates of two-year colleges shall accompany their diplomas by satisfactory evidence that they have practiced veterinary medicine for five years last past subsequent to the issue of such diplomas. Every person applying to the board of examiners in veterinary medicine for a license to practice veterinary medicine shall pay to the board a fee of ten dollars, which fee in no case shall be refunded, and from the fund thus created the board shall pay such necessary expenses as it may incur. Such expenses shall not exceed in any one fiscal year the amount of fees collected during that period, but if any balance remain after paying all such expenses it shall be paid into the state school fund, except as hereinabove provided. Said board shall, by means of examinations, ascertain the professional qualifications of all applicants for license to practice veterinary medicine in said state, and shall issue such licenses to all who are found by such examinations to be, in the judgment of said board, competent to so practice; and no such license shall be issued to any person who has not so demonstrated his competence, except as hereinafter otherwise provided. Such examinations shall be held in January, April, July, and October of each year, and shall include all such subjects as are ordinarily included in the curricula of veterinary colleges in good standing, but examinations may be held at such other times and include such other subjects as said board shall authorize and direct. Said board shall number consecutively all applications received, note upon each the disposition made of it, and preserve the same for reference, and shall number consecutively all licenses issued.

Arrangements with boards of other states.

§ 4. That said board of examiners, so far as may be possible, shall make arrangements with analogous boards of the several states and terri-

ories whereby due credit for state and territorial licenses will be allowed in the state of California to such licentiates of said boards as desire to secure licenses to practice veterinary medicine in this state, and whereby licentiates of the board of examiners in veterinary medicine in the state of California will secure due credit for licenses issued by said board whenever such licentiates desire to secure licenses to practice veterinary medicine in any state or territory; but no arrangements shall be made under the provisions of this section which will be liable to lower the standard of practice of veterinary medicine in the state of California, and no arrangement for the mutual recognition of licenses shall be valid until it has been approved by the governor of the state of California.

Appeal of applicant when license has been refused. Board of review.

§ 5. That any person having been examined by said board of examiners in veterinary medicine and having been refused a license as the result of such examination may, within thirty days after formal notification of such refusal, appeal from the decision of said board. Such appeal must be in writing, addressed to the governor of the state of California, setting forth the ground upon which it is based, and accompanied by a deposit of thirty dollars. If, after examination of said appeal, the governor deem it proper, he shall appoint a board of review, consisting of three practitioners of veterinary medicine having qualifications similar to those required of members of the regular board of examiners in veterinary medicine, which board shall review the examination of appellant, and if they deem necessary re-examine him and report their finding to the governor; and such finding shall be final and binding upon all parties concerned, and if favorable to the appellant the board of examiners in veterinary medicine shall issue to him a license to practice veterinary medicine in said state. Each member of said board of review shall be paid a fee of not more than ten dollars for each candidate examined, payment to be made from the deposit of the appellant if the finding is adverse to him, but otherwise from the funds of the board of examiners. If favorable, the amount deposited shall be returned to the appellant.

License must be displayed.

§ 6. That every person practicing veterinary medicine in the state of California, or representing himself or permitting himself to be represented as so practicing, shall display or cause to be displayed conspicuously in his usual place of business his license to practice in said state. Said place of business shall, during all reasonable hours, be open to inspection by any representative of the police department or of the board of examiners in veterinary medicine of said state, so far as may be necessary to examine such licenses, and it shall be unlawful for any person to interfere with any inspection made or intended to be made for this purpose.

Practicing veterinarian defined.

§ 7. That from and after the passage of this act any person shall be regarded as practicing veterinary medicine in the state of California who

shall, in said state, append or cause to be appended to his name the letters V. S., D. V. M., V. M. D., M. D. V., M. D. C., D. V. S., or M. R. C. V. S., or the words "veterinary," "veterinarian," "veterinary surgeon," or "veterinary dentist," "veterinary farrier," "veterinary horse-shoer," "horse dentist," or "horse doctor," or who shall prescribe, advise, or apply any drug or medicine or other agency, or who shall perform any operation for the treatment, relief, or cure of any sick, diseased, or injured lower animal, or for commercial purposes, or who shall publicly profess to do any of these things, and shall charge or receive therefor money or other compensation, directly or indirectly; provided, nothing in this act shall be construed to prohibit members of the medical profession from prescribing for domestic animals in case of emergency, and collecting a fee therefor, nor to prohibit gratuitous services in an emergency, nor to prevent any person from practicing veterinary medicine on any animal belonging to himself or herself.

Present rights not affected.

§ 8. That this act shall not affect the rights under the laws of the state of California of veterinarians to practice veterinary medicine who have lawful rights to practice veterinary medicine at the time of the passage of this act; and provided further, that this act shall not apply to veterinary surgeons in the employ of the United States army, nor to regularly licensed veterinarians in actual consultation from other states, nor to regularly licensed veterinarians actually called from other states to attend cases in the state of California, but who do not open an office or appoint a place to do business within said state, nor to employees of licensed veterinarians legally qualified to practice as such under the provisions of this act.

License may be suspended or revoked, when.

§ 9. That the board of examiners in veterinary medicine hereby created may, by a vote of four members, revoke or suspend for a certain time the license of any person to practice veterinary medicine or any branch thereof in the state of California after notice and hearing, for any of the following causes, namely: The employment of fraud or deception in passing the examinations or in obtaining a license, chronic inebriety, or conviction of crime involving moral turpitude. The form of complaint, the form and length of notice, and the time and procedure of hearing charges against any licensee for any of the above causes shall be as near as possible according to the provisions of Title XI of the Code of Civil Procedure and the president of the board shall sign all papers, writs and process.

Violation of act a misdemeanor.

§ 10. That any person who shall violate or aid or abet in violating any of the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not more than two hundred dollars or by imprisonment in the county jail for not more than six months, or by both such fine and imprisonment.

Quorum of board.

§11. That three members of the board of examiners in veterinary medicine in the state of California shall constitute a quorum for the transaction of business at any meeting of the board, except as provided in section 9 of this act.

§12. That this act shall take effect immediately, and all laws in conflict with this act are hereby repealed.

TITLE 548.**VISALIA.****ACT 4298.**

Incorporating, and providing for public schools therein. [Stats. 1873-74, p. 171.]

Amended 1875-76, p. 119. Superseded by incorporating in 1900, under statute of 1882.

ACT 4299.

[Quieting title to town lots in. Stats. 1877-78, p. 363.]

TITLE 549.**VITICULTURE.****ACT 4304.**

To define and enlarge the powers and duties of the state viticultural commissioners, to authorize the appointment of certain officers, and to protect the interests of horticulture and agriculture. [Stats. 1881, p. 51.]

Enlarged 1885, p. 9. Repealed 1895, p. 235.

Unconstitutional in part: Ex parte Cox, 68 Cal. 21.

ACT 4305.

To enlarge the duties of the board of state viticultural commissioners. [Stats. 1885, p. 9.]

Repealed 1895, p. 235.

ACT 4306.

For the promotion of the viticultural industries of the state. [Stats. 1880, p. 52.]

Enlarged 1881, p. 51; 1885, p. 9. Certain sections repealed 1895, p. 235.

This act provided for the creation of viticultural districts and the appointment of viticultural commissioners.

ACT 4307.

An act for the protection of the viticultural interests of the state, and making an appropriation therefor.

[Approved March 26, 1903. Stats. 1903, p. 522.]

§1. The regents and the president of the University of California are hereby directed to cause to be prosecuted with all possible diligence,

in connection with and in addition to the work heretofore carried on by the agricultural experiment station, experimental and research work in the field of viticulture, including both cultural and industrial processes. They are directed to ascertain the adaptation of the various kinds of vines to the several climatic and soil conditions of the state, with the special reference to those stocks for propagating purposes, resistant to the phylloxera, and to further their adaptability and utility as grafting stocks for producing wine, raisin and table grapes. They are directed to ascertain the best methods of grafting and propagating said stocks and vines, together with the most important methods of vinification and the preparation, manufacture and application of yeasts in vinification and distillation. They are further directed to report upon the utilization of the by-products of the vineyard and winery, the study and treatment of the vine diseases and all matters appertaining to the viticultural industry, pertinent to the successful conduct of the business and that may be of general public interest, use and profit. They are further directed to publish the result of said experiments and investigations in form of bulletins from time to time, as may seem advisable, and not less than two bulletins showing the progress and result of the work, shall be issued in any fiscal year.

§ 2. The sum of three thousand dollars (\$3,000) is hereby appropriated out of any money in the treasury not otherwise appropriated, for the purpose of carrying into effect the provisions of this act; said money to be paid to the regents of the University of California, to be expended by them through the agricultural department of the university during the two years beginning July 1, 1903. The controller of the state is hereby directed to draw his warrant for such payments as requested by said regents of the state university of California, and the treasurer of the state is hereby directed to pay the same.

§ 3. This act shall take effect and be in force from and after its passage.

TITLE 550.

WAGON ROAD CORPORATIONS.

ACT 4812.

To provide for the formation of. [Stats. 1853, p. 114.]

Amended 1856, p. 71.

Citations. Cal. 122/388.

This act was repealed by the later act of March 12, 1858. Stats. 1858, p. 169, in regard to the formation of wagon-road corporations, being inconsistent with it: See People ex rel. Waugh v. Auburn etc. Tp. Co., 122 Cal. 835.

TITLE 551.
WAREHOUSES.

ACT 4317.

To authorize the keepers of warehouses to sell goods on storage after a certain period. [Stats. 1851, p. 170.]

This act is probably superseded by the provisions of the code relating to storage. In the absence of positive legislation it is difficult to determine what, if any, part of it is in force.

ACT 4318.

Relating to warehouse and wharfinger receipts and other matters pertaining thereto. [Stats. 1877-78, p. 949.]

Odified by §§ 1858-1858f. of Civil Code. See note to § 1858, Civil Code.

See post, Acts 4819, 4820.

Citations. Cal. 68/609, 610; 75/855; 108/140; 110/359; 111/380; 123/631.

App. 1/491.

ACT 4319.

An act concerning warehouse receipts, and the issuing, sale and transfer thereof, and the sale of goods, wares and merchandise stored in public or private warehouses in other states.

[Approved March 20, 1905. Stats. 1905, p. 322.]

See Civil Code, §§ 1858-1858f. See, also, Act of 1909, p. 437, regulating warehouse receipts, post, Act 4820.

§1. That it shall be unlawful for any corporation, firm or person, their agents or employees, to issue, sell, pledge, assign or transfer in this state, any receipt, certificate or other written instrument purporting to be a warehouse receipt, or in the similitude of a warehouse receipt, or designed to be understood as a warehouse receipt, for goods, wares or merchandise stored or deposited, or claimed to be stored or deposited, in any warehouse, public or private, in any other state, unless such receipt, certificate or other written instrument, shall have been issued by the warehousemen operating such warehouse.

§2. It shall be unlawful for any corporation, firm or person, their agents or employees, to issue, sell, pledge, assign or transfer in this state, any receipt, certificate or other written instrument for goods, wares or merchandise claimed to be stored or deposited, in any warehouse, public or private, in any other state, knowing that there is no such warehouse located at the place named in such receipt, certificate or other written instrument, or if there be a warehouse at such place, knowing that there are no goods, wares or merchandise stored or deposited therein as specified in such report, certificate or other written instrument.

§3. It shall be unlawful for any corporation, firm or person, their agents or employees, to issue, sign, sell, pledge, assign or transfer, in this state, any receipt, certificate or other written instrument evidencing, or purporting to evidence, the sale, pledge, mortgage or bailment of any

goods, wares or merchandise stored or deposited, or claimed to be stored or deposited, in any warehouse, public or private, in any other state, unless such receipt, certificate or other written instrument shall plainly designate the number and location of such warehouse, and shall also set forth therein a full, true and complete copy of the receipt issued by the warehouseman operating such warehouse wherein such goods, wares or merchandise are stored or deposited, or are claimed to be stored or deposited: Provided, that the provisions of this section shall not apply to the issue, signing, sale, pledge, assignment or transfer of bona fide warehouse receipts issued by the warehouseman operating public or bonded warehouses in other states, according to the laws of the state wherein such warehouses may be located.

§ 4. Every corporation, firm or person, or agent, or employee, who shall knowingly violate any of the provisions of this act, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined in any sum not less than fifty nor more than one thousand dollars, to which may be added imprisonment in the county jail for any period not exceeding six months.

ACT 4320.

An act to make uniform the law of warehouse receipts.

[Approved March 19, 1909. Stats. 1909, p. 437.]

Receipts, who may issue.

§ 1. Warehouse receipts may be issued by any warehouseman.

What receipt must embody. Liability for omission.

§ 2. Warehouse receipts need not be in any particular form, but every such receipt must embody within its written or printed terms—

- (a) The location of the warehouse where the goods are stored,
- (b) The date of issue of the receipt,
- (c) The consecutive number of the receipt,
- (d) A statement whether the goods received will be delivered to the bearer, or to a specified person, or to a specified person or his order,
- (e) The rate of storage charges,
- (f) A description of the goods or of the packages containing them.
- (g) The signature of the warehouseman, which may be made by his authorized agent,
- (h) If the receipt is issued for goods of which the warehouseman is owner, either solely or jointly or in common with others, the fact of such ownership, and
- (i) A statement of the amount of advances made and of liabilities incurred for which the warehouseman claims a lien. If the precise amount of such advances made or of such liabilities incurred is, at the time of the issue of the receipt, unknown to the warehouseman or to his agent who issues it, a statement of the fact that advances have been made or liabilities incurred and the purpose thereof is sufficient.

A warehouseman shall be liable to any person injured thereby, for all damage caused by the omission from a negotiable receipt of any of the terms herein required.

Insertion of other conditions.

§ 3. A warehouseman may insert in a receipt, issued by him, any other terms and conditions, provided that such terms and conditions shall not—

(a) Be contrary to the provisions of this act.

(b) In anywise impair his obligation to exercise that degree of care in the safekeeping of the goods intrusted to him which a reasonably careful man would exercise in regard to similar goods of his own.

Non-negotiable receipt.

§ 4. A receipt in which it is stated that the goods received will be delivered to the depositor, or to any other specified person, is a non-negotiable receipt.

Negotiable receipt.

§ 5. A receipt in which it is stated that the goods received will be delivered to the bearer, or to the order of any person named in such receipt is a negotiable receipt. No provision shall be inserted in a negotiable receipt that is non-negotiable. Such provision, if inserted, shall be void.

Duplicates shall be so marked.

§ 6. When more than one negotiable receipt is issued for the same goods, the word "duplicate" shall be plainly placed upon the face of every such receipt, except the one first issued. A warehouseman shall be liable for all damage caused by his failure so to do anyone who purchased the subsequent receipt for value supposing it to be an original, even though the purchase be after the delivery of the goods by the warehouseman to the holder of the original receipt.

Non-negotiable shall be marked.

§ 7. A non-negotiable receipt shall have plainly placed upon its face by the warehouseman issuing it, "non-negotiable," or "not negotiable." In case of the warehouseman's failure so to do, a holder of the receipt who purchased it for value supposing it to be negotiable, may, at his option, treat such receipt as imposing upon the warehouseman the same liabilities he would have incurred had the receipt been negotiable.

This section shall not apply, however, to letters, memoranda, or written acknowledgments of an informal character.

Rights of holder of receipt.

§ 8. A warehouseman, in the absence of some lawful excuse provided by this act, is bound to deliver the goods upon a demand made either by the holder of a receipt for the goods or by the depositor, if such demand is accompanied with—

(a) An offer to satisfy the warehouseman's lien,

(b) An offer to surrender the receipt if negotiable, with such indorsements as would be necessary for the negotiation of the receipt, and

(c) A readiness and willingness to sign, when the goods are delivered, an acknowledgment that they have been delivered, if such signature is requested by the warehouseman.

In case the warehouseman refuses or fails to deliver the goods in compliance with a demand by the holder or depositor so accompanied, the burden shall be upon the warehouseman to establish the existence of a lawful excuse for such refusal.

When warehouseman justified in delivering goods.

§ 9. A warehouseman is justified in delivering the goods subject to the provisions of the three following sections, to one who is—

(a) The person lawfully entitled to the possession of the goods, or his agent,

(b) A person who is either himself entitled to delivery by the terms of a non-negotiable receipt issued for the goods, or who has written authority from the person so entitled either indorsed upon the receipt or written upon another paper, or

(c) A person in possession of a negotiable receipt by the terms of which the goods are deliverable to him or order or to bearer, or which has been indorsed to him or in blank by the person to whom delivery was promised by the terms of the receipt or by his mediate or immediate indorsee.

When warehouseman liable.

§ 10. Where a warehouseman delivers the goods to one who is not in fact lawfully entitled to the possession of them, the warehouseman shall be liable as for conversion to all having a right of property or possession in the goods if he delivered the goods otherwise than as authorized by subdivisions (b) and (c) of the preceding section and though he delivered the goods as authorized by said subdivision he shall be so liable, if prior to such delivery he had either

(a) Been requested, by or on behalf of the person lawfully entitled to a right of property or possession in the goods, not to make such delivery, or

(b) Had information that the delivery about to be made was to one not lawfully entitled to the possession of the goods.

Same.

§ 11. Except as provided in section 36, where a warehouseman delivers goods for which he had issued a negotiable receipt, the negotiation of which would transfer the right to the possession of the goods, and fails to take up and cancel the receipt, he shall be liable to anyone who purchases for value in good faith such receipt, for failure to deliver the goods to him, whether such purchaser acquired title to the receipt before or after the delivery of the goods by the warehouseman.

Same.

§ 12. Except as provided in section 36, where a warehouseman delivers part of the goods for which he had issued a negotiable receipt and fails

either to take up and cancel such receipt, or to place plainly upon a statement of what goods or packages have been delivered he shall be liable, to anyone who purchases for value in good faith such receipt, for failure to deliver all the goods specified in the receipt, whether the purchaser acquired title to the receipt before or after the delivery of any portion of the goods by the warehouseman.

Alteration of receipt, no excuse from liability. Fraudulent alteration

§ 13. The alteration of a receipt shall not excuse the warehouseman who issued it from any liability if such alteration was

- (a) Immaterial,
- (b) Authorized, or
- (c) Made without fraudulent intent.

If the alteration was authorized, the warehouseman shall be liable according to the terms of the receipt as altered. If the alteration was unauthorized, but made without fraudulent intent, the warehouseman shall be liable according to the terms of the receipt, as they were before alteration.

Material and fraudulent alteration of a receipt shall not excuse the warehouseman who issued it from liability to deliver, according to the terms of the receipt as originally issued, the goods for which it was issued, but shall excuse him from any other liability to the person who made the alteration and to any person who took with notice of the alteration. Any purchaser of the receipt for value without notice of the alteration shall acquire the same rights against the warehouseman which such purchaser would have acquired if the receipt had not been altered at the time of the purchase.

Delivery when receipt is lost, how.

§ 14. Where a negotiable receipt has been lost or destroyed, a court of competent jurisdiction may order the delivery of the goods upon satisfactory proof of such loss or destruction and upon the giving of a bond with sufficient sureties to be approved by the court to protect the warehouseman from any liability or expense, which he or any person by such delivery may incur by reason of the original receipt remaining outstanding. The court may also in its discretion order the payment of the warehouseman's reasonable costs and counsel fees.

The delivery of the goods under an order of the court as provided in this section, shall not relieve the warehouseman from liabilities to a person to whom the negotiable receipt has been or shall be negotiated for value without notice of the proceedings or of the delivery of the goods.

Word "duplicate" is warranty.

§ 15. A receipt upon the face of which the word "duplicate" is plainly placed is a representation and warranty by the warehouseman that such receipt is an accurate copy of an original receipt properly issued and uncanceled at the date of the issue of the duplicate, but shall impose upon him no other liability.

Title of warehouseman.

§ 16. No title or right to the possession of the goods, on the part of the warehouseman, unless such title or right is derived directly or indirectly from a transfer made by the depositor at the time of or subsequent to the deposit for storage, or from the warehouseman's lien, shall excuse the warehouseman from liability for refusing to deliver the goods according to the terms of the receipt.

Claimants may interplead.

§ 17. If more than one person claim the title or possession of the goods, the warehouseman may, either as a defense to an action brought against him for nondelivery of the goods, or as an original suit, whichever is appropriate, require all known claimants to interplead.

Refusal to deliver, excuse from liability.

§ 18. If some one other than the depositor or person claiming under him has a claim to the title or possession of the goods, and the warehouseman has information of such claim, the warehouseman shall be excused from liability for refusing to deliver the goods, either to the depositor or person claiming under him or to the adverse claimant, until the warehouseman has had a reasonable time to ascertain the validity of the adverse claim or to bring legal proceedings to compel all claimants to interplead. If such adverse claimant shall not bring suit and serve summons on the warehouseman within forty-eight hours after the service of notice of his adverse claim, such failure shall act as a complete abandonment of such adverse claim.

Rights of third persons.

§ 19. Except as provided in the two preceding sections and in sections 9 and 36, no right or title of a third person shall be a defense to an action brought by the depositor or person claiming under him against the warehouseman for failure to deliver the goods according to the terms of the receipt.

Goods must correspond with description.

§ 20. A warehouseman shall be liable to the holder of a receipt for damages caused by the nonexistence of the goods or by the failure of the goods to correspond with the description thereof in the receipt at the time of its issue. If, however, the goods are described in a receipt merely by a statement of marks or labels upon them, or upon packages containing them, or by a statement that the goods are said to be goods of a certain kind, or that packages containing the goods are said to contain goods of a certain kind, or by words of like purport, such statements, if true, shall not make liable the warehouseman issuing the receipt, although the goods are not of the kind which the marks or labels upon them indicate, or of the kind they were said to be by the depositor.

Injury to goods.

§ 21. A warehouseman shall be liable for any loss or injury to the goods caused by his failure to exercise such care in regard to them as

provisions of this act; provided, that nothing contained in this section shall affect the title of a registered owner who has taken bona fide for a valuable consideration, or of any person bona fide claiming through or under him.

Clerk of court shall notify registrar of appeal.

§ 107. In case of an appeal from any proceeding under this act, or from any judgment, order, or decree affecting registered lands, the clerk of the court in which the notice of appeal is filed shall forthwith notify the registrar thereof, and thereupon the registrar shall enter upon the register a memorial of such appeal.

All fees collected by registrar to be paid to county treasurer and applied to expenses of administration of this act.

§ 108. All fees collected by the registrar under the provisions of this act shall be accounted for, paid, disbursed, and disposed of by him in the same manner that fees collected by him as county recorder are now or may hereafter be by law accounted for, paid, disbursed and disposed of. Should there be a surplus in any year, such surplus shall be carried into the general fund, and be subject to appropriation for any purpose. In case such fees shall not amount to the sum required for the administration of this act, the deficiency shall be paid from any funds in the treasury not otherwise appropriated.

Board of supervisors shall furnish registrar all necessary books, etc.

§ 109. All books, blanks, papers, and all things necessary for the purpose of carrying out the provisions of this act, shall be furnished by the board of supervisors, at the expense of the county.

The attorney general, state controller, and secretary of state to prepare forms.

§ 110. The attorney general, state controller, and secretary of state shall prepare a uniform system of books, blanks, and forms for the use of the public officers required to perform duties under this act, and such forms, and none other, shall be used by such officers.

PENALTIES.

Fraudulent procurement of certificate, a felony.

§ 111. Whoever fraudulently procures, assists in fraudulently procuring, or is privy to the fraudulent procurement of any certificate of title or other instrument, or of any entry in the register or other book kept in the registrar's office, or of any erasure or alteration in any entry in any said book, or in any instrument authorized by this act, or knowingly defrauds or is privy to defrauding any person by means of a false or fraudulent instrument, certificate, statement, or affidavit affecting registered land, shall be guilty of a felony, and fined not exceeding five thousand dollars, or be imprisoned not exceeding five years nor less than one year, or either, or both, in the discretion of the court.

Forgery of a seal, signature, or instrument in registrar's office, a felony.

§ 112. Whoever (1) forges, or procures to be forged, or assists in forging the seal of the registrar, or the name, signature, or handwriting of any officer of the registry office in cases where such officer is expressly or impliedly authorized to affix his signature; or (2) fraudulently stamps, or procures to be stamped, or assists in stamping any document with any forged seal of said registrar; or (3) forges, or procures to be forged, or assists in forging the name, signature, or handwriting of any person whomsoever to any instrument which is expressly or impliedly authorized to be signed by such person; or (4) uses any document upon which any impression, or part of the impression, of any seal of said registrar has been forged, knowing the same to have been forged, or any document, the signature to which has been forged, knowing the same to have been forged; or (5) swears falsely concerning any matter or procedure made and done in pursuance of this act, shall be guilty of a felony, and imprisoned not exceeding ten years, nor less than one year, or fined not exceeding five thousand dollars, or both fined and imprisoned, in the discretion of the court.

No proceeding or conviction under this act shall affect any remedy at law or in equity.

§ 113. No proceeding or conviction for any act hereby declared to be a misdemeanor or a felony shall affect any remedy which any person aggrieved or injured by such act may be entitled to at law or in equity against the person who has committed such act, or against his estate, or against the registrar, or upon his bond.

FEEES.

Fees same as in similar cases under present laws, except as provided herein.

§ 114. First—The fees, in respect of applications and proceedings under them prior to registration, shall be the same as in actions in the superior court.

Second—There shall be paid to the registrar:

For issuing a certificate of title, including one duplicate thereof, one dollar and fifty cents.

For each additional duplicate, fifty cents.

For registering each transfer, including the issue and registration of the new certificate, one dollar and fifty cents.

For entry of each memorial on the register, including the indorsement upon the duplicate certificates, one dollar.

For the cancellation of each certificate, memorial, or charge, twenty-five cents.

For each certificate showing condition of register, one dollar and fifty cents.

For filing any instrument, or for a certified copy of the register, or of any instrument or writing on file in his office, the same fees allowed by law to recorders for like services.

CONSTRUCTION.

Act to be liberally construed. Construction of similar legislation elsewhere, not adopted.

§ 115. This act shall be construed liberally so far as may be necessary for the purpose of effecting its general intent, but does not adopt by implication the construction of any similar legislation of other jurisdictions which this act may to any extent have followed.

Act to take effect July 1, 1897.

§ 116. This act shall take effect and be in force from and after the first day of July, eighteen hundred and ninety-seven.

TITLE 524.**TRADEMARKS.****ACT 4120.**

Concerning trademarks and trade names. [Stats. 1863, p. 155.]

Amended 1867-68, p. 423. Superseded by Penal Code, § 350, and Political Code, §§ 3196-3199.

ACT 4121.

To protect owners of bottles, boxes, siphons and kegs used in the sale of soda waters, mineral waters, porter, ale, cider, milk, beer, and other beverages, etc. [Stats. 1891, p. 217.]

Amended 1903, p. 83.

This act appears in full in Civil Code, Appendix, p. 338.

TITLE 525.**TRADING STAMPS.****ACT 4123.**

An act making it a misdemeanor to sell or exchange property under the representation, advertisement, notice or inducement that an unidentified, unknown, unselected, or chance prize, premium or premium gift, or that a stamp, trading stamp, coupon or other like device entitling the holder to receive such a prize, premium or premium gift, or that the redemption of such a stamp, trading stamp, coupon or other like device so given is to be a part of the transaction, or to sell or exchange any trading stamp, stamp, coupon, or other like device to aid such sale or exchange, as aforesaid, and providing a penalty therefor. [Approved March 7, 1905. Stats. 1905, p. 67.]

Unconstitutional: *Ex parte Drexel*, 147 Cal. 763.

TITLE 526.**TRAINING SHIP.****ACT 4125.**

To establish and maintain a training ship in the city and county of San Francisco. [Approved February 15, 1876. Stats. 1875-76, p. 54.]

Amended 1877-78, p. 238.

Training ship: See Act 3327.

TITLE 527.**TRAMROAD COMPANIES.****ACT 4130.**

Shasta County, providing for incorporation of tramroad companies in.
[Stats. 1871-72, p. 800.]

TITLE 528.**TREASURERS.****ACT 4133.**

An act to authorize the deposit of state moneys in banks in this state, and to repeal all acts or parts of acts in conflict with this act.
[Approved March 20, 1905. Stats. 1905, p. 323.]

Repealed 1907, p. 67. See Act 4134.

ACT 4134.

An act to authorize the deposit of state moneys in banks in this state, and to repeal all acts or parts of acts in conflict with this act.

[Approved February 28, 1907. Stats. 1907, p. 67.]

Deposit of state moneys in banks. Security. Interest. Amount. Expense of transporting moneys.

§1. All moneys in the state treasury belonging to the state not immediately required to meet current expenditures may be deposited by the state treasurer to the credit of the state in such state or national bank, or banks, in the state, as the treasurer, with the approval of the governor and state controller, shall select for the safekeeping of such deposits, and any sum so deposited shall be deemed to be in the state treasury; provided, that the bank or banks in which such money is deposited shall furnish security as hereinafter provided, and provided further, that such depositary bank or banks be selected from those agreeing to pay the highest rate of interest, not less than two per cent per annum, for such deposits, as may be determined by bids to be submitted at such times and in such manner, as the treasurer, with the approval of the governor and state controller, shall direct; provided, that not more than one-tenth of the aggregate amount of state moneys available for deposit and on deposit shall be deposited in any one bank, and provided further, that such deposit shall not exceed twenty-five per cent of the paid-up capital, exclusive of reserve and surplus, of any depositary bank. Any and all bids may be rejected by the treasurer, with the approval of the governor and state controller, and new bids asked for. The expense of transportation of moneys to and from the state treasury to such depositaries shall be borne by such depositaries. Said deposits, with interest thereon, shall be subject to withdrawal at any time upon the demand of the state treasurer, or upon presentation of a certificate of deposit properly indorsed.

Interest, when payable. School moneys.

§2. The interest to be paid by any such depositary bank shall be on the average daily balances of the state moneys kept on deposit there-

Same.

§ 39. A receipt which is not in such form that it can be negotiated by delivery may be transferred by the holder by delivery to a purchaser or donee.

A non-negotiable receipt can not be negotiated, and the indorsement of such a receipt gives the transferee no additional right.

By whom may be negotiated.

§ 40. A negotiable receipt may be negotiated—

(a) By the owner thereof, or

(b) By any person to whom the possession or custody of the receipt has been intrusted by the owner, if, by the terms of the receipt, the warehouseman undertakes to deliver the goods to the order of the person to whom the possession or custody of the receipt has been intrusted, or if at the time of such intrusting the receipt is in such form that it may be negotiated by delivery.

What is acquired by negotiation.

§ 41. A person to whom a negotiable receipt has been duly negotiated acquires thereby—

(a) Such title to the goods as the person negotiating the receipt to him had or had ability to convey to a purchaser in good faith for value, and also such title to the goods as the depositor or person to whose order the goods were to be delivered by the terms of the receipt had or had ability to convey to a purchaser in good faith for value, and

(b) The direct obligation of the warehouseman to hold possession of the goods for him according to the terms of the receipt as fully as if the warehouseman had contracted directly with him.

What is acquired by transfer of receipt.

§ 42. A person to whom a receipt has been transferred but not negotiated, acquires thereby, as against the transferor, the title to the goods, subject to the terms of any agreement with the transferor.

If the receipt is non-negotiable such person also acquires the right to notify the warehouseman of the transfer to him of such receipt, and thereby to acquire the direct obligation of the warehouseman to hold possession of the goods for him according to the terms of the receipt.

Prior to the notification of the warehouseman by the transferor or transferee of a non-negotiable receipt, the title of the transferee to the goods and the right to acquire the obligation of the warehouseman may be defeated by the levy of an attachment or execution upon the goods by a creditor of the transferor, or by a notification to the warehouseman by the transferor or a subsequent purchaser from the transferor of a subsequent sale of the goods by the transferor.

Transferee acquires, what.

§ 43. Where a negotiable receipt is transferred for value by delivery, and the indorsement of the transferor is essential for negotiation, the transferee acquires a right against the transferor to compel him to in

or banks, to be approved by the governor, controller and treasurer, to secure the state against loss by any depreciation in value that may occur in such bonds held by him as security for the safekeeping and prompt payment of the state moneys in such depositaries.

Treasurer not responsible for deposits.

§ 6. The state treasurer shall not be responsible for any moneys deposited in a bank or in banks under the provisions of this act while the same remain there deposited with the consent of the governor and controller; but the treasurer shall be chargeable with the safekeeping, management and disbursement of the bonds and certificates of deposit deposited with him as security for deposits of state moneys, and with the interest thereon, and the proceeds of any sale under the provisions of this act.

Certificates of deposit. Warrants paid by certificates.

§ 7. At the time of depositing state moneys in any bank designated as a depositary the treasurer shall take a certificate or certificates of deposits made payable to the treasurer of state in such sum or sums as he shall deem advisable. Such certificate or certificates of deposit in the possession of the treasurer shall be deemed and counted as cash by the state board of examiners. Controller's warrants drawn upon the state treasury may be paid by such certificates of deposit when properly indorsed by the treasurer the same as in cash.

Act of 1905 repealed.

§ 8. The act of March 20, 1905, entitled "An act to authorize the deposit of state moneys in banks in this state, and to repeal all acts or parts of acts in conflict with this act," and all other acts or parts of acts in conflict with this act are hereby expressly repealed.

ACT 4135.

Relating to treasurers, their deputies and clerks, in counties and cities and counties having a population of two hundred thousand inhabitants or over. [Stats. 1893, p. 282.]

Superseded as to San Francisco by the charter of that city. This act appears in full in Political Code, Appendix, tit. "Treasurers," p. 1480.

ACT 4136.

Authorizing the state treasurer to pay controller's warrants drawn for the salaries of public officers who are entitled to monthly payments from the state. [Stats. 1873-74, p. 593.]

Codified by § 461 of Political Code.

ACT 4137.

For the better protection of the state treasury. [Stats. 1867-68, p. 554.]

This act authorized the state treasurer to employ two watchmen. The code commissioners say of it: "Doubtless superseded by § 457, Political Code, but nevertheless amended by statute of 1895, p. 55, c. LIV."

ACT 4138.

To provide an additional watchman for the state treasurer. [Stats. 1895, p. 55.]

"Purports to amend statute of 1868, p. 554, c. CDXXXI, which statute was, however, superseded by Political Code, § 457."—Code Commissioners' Note.

ACT 4139.

Increasing number of deputies for limited period. [Approved March 16, 1889. Stats. 1889, p. 303.]

Repealed March 26, 1895, Stats. 1895, p. 83.

TITLE 529.**TRESPASS.****ACT 4144.**

Preventing persons passing through inclosures and leaving them open, and tearing down fences to make passages through inclosures. [Stats. 1871-72, p. 384.]

See § 7, 1875-76, p. 408; 1877-78, pp. 49, 776.

Superseded by Penal Code, § 602, subd. 8.

Citations. Cal. 108/847.

TRESPASSING ANIMALS.

See "Estrays."

TITLE 530.**TRINITY COUNTY.****ACT 4149.**

Additional contingent fund for. [Stats. 1877-78, p. 184.]

Repealed by subd. 18, § 25, County Government Act, 1897, p. 463.

ACT 4150.

Providing for construction and maintenance of free bridges in. [Stats. 1873-74, p. 62.]

ACT 4151.

County clerk of, salary of. [Stats. 1873-74, p. 184.]

Repealed by County Government Acts: See 1897, p. 568, § 210.

ACT 4152.

Authorizing transcribing of records in. [Stats. 1862, p. 164.]

Amended 1863, p. 22.

ACT 4153.

Public schools of, employment of teachers in. [Stats. 1873-74, p. 472.]

Amended 1875-76, p. 122. Probably repealed by Political Code, § 1696, as amended 1893, p. 255.

ACT 4154.

Supervisors to fix and pay compensation of under-sheriff of. [Stats. 1873-74, p. 593.]

Superseded by County Government Acts: See 1897, p. 568, § 210.

ACT 4155.

Fixing salary of members of board of supervisors. [Stats. 1871-72, p. 380.]

Repealed by County Government Act, 1897, p. 568, § 210.

ACT 4156.

Supervisors to fix rate of tolls to be charged on wagon roads. [Stats. 1873-74, p. 607.]

See County Government Act, 1897, p. 452, § 25, subd. 3d.

TITLE 531.**TRUSTS.****ACT 4161.**

To provide for the more certain execution of express trusts in case of the death of the last surviving trustee. [Stats. 1867-68, p. 170.]

Superseded by Civil Code, §§ 2287-2289.

ACT 4162.

An act to encourage and provide for the dissemination of a knowledge of the arts, sciences, and general literature, and the founding, maintaining, and perpetuating public libraries, museums, and galleries of art, and the receipt of donations and contributions thereto when established; for the conveyance, holding, and protection of real property within this state suitable for the purposes herein designated, and the erection thereon of buildings appropriate to such purposes, and for the creation of trusts necessary or proper for the better preservation of such institutions, and the control and management thereof.

[Approved March 5, 1887. Stats. 1887, p. 26.]

See post, Acts 4163, 4164, 4165.

Manner of conveying gifts for dissemination of knowledge of arts, etc.

§ 1. Any person intending in his lifetime or by will or trust deed, to operate after his death, to found, maintain, and perpetuate in this state a public library, museum, gallery of art, or any or all thereof, for the diffusion of mechanical, scientific, artistic, and general knowledge, may to that end and for such purpose, and for any purpose within the purview of the title of this act, convey in writing by words denoting a gift or grant to one or more trustees named in such gift or grant, and to their successors, any library or collection of books and works, for such public library, or any museum, or gallery of art in this state, and such

An antecedent or pre-existing obligation, whether for money or not, constitutes value where a receipt is taken either in satisfaction thereof or as security therefor.

"Warehouseman" means a person lawfully engaged in the business of storing goods for profit.

(2) A thing is done "in good faith" within the meaning of this act, when it is in fact done honestly, whether it be done negligently or not.

Prior acts.

§ 59. The provisions of this act do not apply to receipts made and delivered prior to the taking effect of this act.

Same.

§ 60. All acts or parts of acts inconsistent with this act are hereby repealed.

Name of act.

§ 61. This act may be cited as the Warehouse Receipts Act.

TITLE 552.

WARM SPRINGS CREEK.

ACT 4323.

To declare navigable. [Stats. 1871-72, p. 307.]

The code commissioners say of this act: "Probably repealed by Political Code, § 2849, as amended 1891."

TITLE 553.

WARRANTS.

ACT 4328.

To provide for the payment of the controller of state's warrants, which have been lost or destroyed previous to payment by the state treasurer. [Stats. 1891, p. 294.]

See this act, ante, Act 2033.

TITLE 554.

WASHINGTON TOWNSHIP.

ACT 4333.

Yolo County, hogs and goats in Washington Township. [Stats. 1875-76, p. 800.]

Superseded by 1897, p. 198.

TITLE 555.

WATER COMMISSIONERS.

The Political Code, § 19, continued in force all acts creating or regulating boards of water commissioners and overseers in the several townships or counties of the state. For the act governing in any particular township or county, see the particular title. See, also, Acts 4364, 4365.

Privileges granted to founder.

§ 5. By a provision in such gift or grant, the founder may elect, in respect to the personal and real property conveyed, and the additions and increase thereof, and in respect to the erection, maintenance, and management of any buildings auxiliary thereto, and in respect to any property connected with such institution, to reserve to himself a veto and right of annulment or modification of any act of such trustees, in case he shall, within thirty days after notice of the performance of such act, file in the office of said trustees, or deliver to their president or principal officer, a notice in writing, of such veto, annulment, or modification, and upon a like notice, in conformity with a provision in such gift or grant, he may elect to perform during his life all the powers which, by the terms thereof, are vested in or enjoined upon the trustees therein named, and their successors; provided, that upon the death or disability to act of the founder and grantor, such powers and duties shall be devolved upon, and be exercised by, the trustees named in the gift or grant, and their successors. Such person may also reserve the right to alter, amend, or modify, at any time during his life, or by his last will and testament, the terms and conditions thereof, and the trust therein created in respect to such institution, its buildings, and the property conveyed therefor.

Election of officers and compensation.

§ 6. The founder shall have power in said deed of trust to name and describe the character and personality of any one or more of the immediate or future trustees, the librarian, and other officers, and to name and impose any particular duty to be performed by any one or more trustees or other officers so described and characterized, and to declare and limit any compensation, and fix the character and method of such compensation he may choose to provide for any such trustee or other officer whom the terms of his foundation may characterize, and upon whom specific or general duties shall be imposed.

Gift, how recorded.

§ 7. Any such gift or grant may be executed, acknowledged, and recorded in the manner now or hereafter provided by law for the execution, acknowledgment, and recording of grants of real property.

Time of commencing suit.

§ 8. No suit, action, or proceeding shall be commenced or maintained by any person to set aside, annul, or affect said gift, grant or conveyance, or to affect the title to the property conveyed, or the right to the possession or to the rents, issues, and profits thereof, unless the same be commenced within two years after the date of the filing of such grant for record.

Founder may bequeath to state of California.

§ 9. Any person, being the founder, making a gift or grant for any of the purposes mentioned in this act, may, at any time thereafter, by last

will or testament, devise or bequeath to the state of California all or any of the property, real, and personal, mentioned in such gift or grant, or in any such supplemental thereto, and such devise or bequest shall take effect in case, from any cause whatever, the gift or grant shall be annulled or set aside, or the trusts therein declared shall for any reason fail. Such devise or bequest is hereby suffered to be made by way of assurance that the intentions of the grantor shall be carried out, and in the faith that the state, in case it shall succeed to the property, or any part thereof, will, to the extent and value of such property carry out, in respect to the objects and purposes of any such grant, all the wishes and intentions of the grantor.

Liberal construction of provisions.

§ 10. The provisions of this act shall be liberally construed, with a view to effect its objects and purposes, and the singular number in the construction thereof shall be deemed to include the plural, and the plural number shall be deemed to include the singular.

Universities, colleges, schools, etc.

§ 11. Nothing in this act shall repeal, modify, change, or have any effect upon any of the provisions of an act of the legislature of the state of California entitled "An act to advance learning, the arts and sciences, and to promote the public welfare by providing for the conveyance, holding, and protection of property, and the creation of trusts for the founding, endowment, erection, and maintenance, within this state, of universities, colleges, schools, seminaries of learning, mechanical institutes, museums, and galleries of art," approved March ninth, eighteen hundred and eighty-five.

§ 12. This act shall take effect immediately.

ACT 4163.

An act to advance learning, the arts and sciences, and to promote the public welfare, by providing for the conveyance, holding, and protection of property, and the creation of trusts for the founding, endowment, erection, and maintenance within this state of universities, colleges, schools, seminaries of learning, mechanical institutes, museums, and galleries of art.

[Approved March 9, 1885. Stats. 1885, p. 49.]

Amended 1891, p. 454. Supplemented 1903, p. 140. See next act.
Citations. Cal. 113/134, 139.

Construction of act.

§ 1. The provisions of this act shall be liberally construed with a view to effect its objects and promote its purposes; and in the construction thereof the singular number shall be deemed to include the plural, and the plural shall be deemed to include the singular number, and the masculine gender shall be deemed to include the feminine.

Grant.

§2. Any person desiring in his lifetime to promote the public welfare by founding, endowing, and maintain[ing] within this state a university, college, school, seminary of learning, mechanical institute, museum, botanic garden, public park, or gallery of art, or any or all thereof, may, to the end and for such purpose, by grant in writing convey to a trustee, or any number of trustees, named in such grant (and to their successors), any property, real or personal, belonging to such person and situated or being within this state; provided, that if such person be married and the property be community property, then both husband and wife must join in such grant. [Amendment approved March 31, 1891. Stats. 1891, p. 454.]

Requisites.

§3. The person making such grant may therein designate:

1. The nature, object, and purposes of the institution or institutions to be founded, endowed, and maintained;

2. The name by which it or they shall be known;

3. The powers and duties of the trustees, and the manner in which they shall account, and to whom, if accounting be required; but such powers and duties shall not be held to be exclusive of other powers and duties which may be necessary to enable such trustees to fully carry out the objects of such grant;

4. The mode and manner, and by whom, the successors to the trustee or trustees named in the grant are to be appointed;

5. Such rules and regulations for the management of the property conveyed as the grantor may elect to prescribe; but such rules shall, unless the grantor otherwise prescribe, be deemed advisory only, and shall not preclude such trustees from making such changes as new conditions may from time to time require;

6. The place or places where and the time when the buildings necessary and proper for the institution or institutions shall be erected, and the character and extent thereof. The person making such grant may therein provide for all other things necessary and proper to carry out the purposes thereof, and especially may such person provide for the trades and professions which shall be taught in such institutions, and the terms upon which deserving scholars of the public and private schools of the various counties of this state may be admitted to all the privileges of such institutions, as a reward for meritorious conduct and good scholarship; and also for maintaining free scholarships for children of persons who have rendered service to or who have died in the service of this state; and also for maintaining free scholarships for children of mechanics, tradesmen, and laborers, who have died without leaving means sufficient to give such children a practical education, fitting them for the useful trades or arts; and also the terms and conditions upon which students in the public and private schools, and other deserving persons, may, without cost to themselves, attend the lectures of any university established; and also the terms and conditions upon which

the museums, and art galleries, and conservatories of music, connected with any such institution, shall be open to all deserving persons without charge, and without their becoming students of the institution.

Actions by trustees.

§ 4. The trustee or trustees named in such grant, and their successors, may, in the name of the institution or institutions, as designated in such grant, sue and defend, in relation to the trust property, and in relation to all matters affecting the institution or institutions endowed and established by such grant.

Grantor as trustee.

§ 5. The person making such grant, by a provision therein, may elect, in relation to the property conveyed, and in relation to the erection, maintenance, and management of such institution or institutions, to perform, during his life, all the duties and exercise all the powers which, by the terms of the grant, are enjoined upon and vested in the trustee or trustees named. If the person making such grant, and making the election aforesaid, be a married person, such person may further provide that if the wife of such person survive him, then such wife, during her life, may, in relation to the property conveyed, and in relation to the erection, maintenance, and management of such institution or institutions, perform all the duties and exercise all the powers which, by the terms of the grant, are enjoined upon and vested in the trustee and trustees therein named, and in all such cases the powers and duties conferred and imposed by such grant upon the trustee or trustees therein named shall be exercised and performed by the person making such grant, or by his wife, during his or her life, as the case may be; provided, however, that upon the death of such person, or his surviving wife, as the case may be, such powers and duties shall devolve upon and shall be exercised by the trustees named in the grant, and their successors.

Amending grant.

§ 6. The person making such grant may therein reserve the right to alter, amend, or modify the terms and conditions thereof, and the trusts therein created, in respect to any of the matters mentioned or referred to in subdivisions 1 to 6, inclusive, of section 3 hereof; and may also therein reserve the right, during the life of such person or persons, of absolute dominion over the personal property conveyed, and also over the rents, issues, and profits of the real property conveyed, without liability to account therefor in any manner whatever, and without any liability over against the estate of such person; and if any such person be married, such person may, in said grant, further provide that if his wife survive him, then such wife, during her life, may have the same absolute dominion over such personal property, and such rents, issues, and profits, without liability to account therefor in any manner whatever, and without liability over against the estate of either of the spouses.

Custody of minors.

§ 7. The person making such grant may therein provide that the trustees named in the grant, and their successors, may, in the name of

the institution or institutions, become the custodian of the person of minors, and when any such provision is made in a grant, the trustees and their successors may take such custody and control in the manner and for the time and in accordance with the provisions of sections 264 to 276, inclusive, of the Civil Code of the state of California.

Execution of grant.

§ 8. Any such grant may be executed, acknowledged, and recorded in the same manner as is now provided by law for the execution, acknowledgment, and recording of grants of real property.

Annulling suit.

§ 9. No suit, action, or proceeding shall be commenced or maintained by any person to set aside, annul, or affect said conveyance, or to affect the title to the property conveyed, or the right to the possession, or to the rents, issues, and profits thereof, unless the same be commenced within two years after the date of filing such grant for record; nor shall any defense be made to any suit, action, or proceedings commenced by the trustee or trustees named in said grant, or their successors, privies, or persons holding under them, which defense involves the legality of said grant, or affects the title to the property thereby conveyed, or the right to the possession, or the rents, issues, and profits thereof, unless such defense is made in a suit, action, or proceeding commenced within two years after such grant shall have been filed for record.

Exemption from execution.

§ 10. The property conveyed by such grant shall not, after a lapse of two years from the date of the filing for record of the grant, be subject to forced sale, under execution, or judicial proceedings of any kind, against the grantor or his privies, unless the action under which the execution shall be issued, or the proceedings under which the sale shall be ordered, shall have been commenced within two years after such grant shall have been filed for record. Nor shall such property be subject to execution or forced sale under any judgment obtained in any proceedings instituted within said two years, if there be other property of the grantor, subject to execution or forced sale sufficient to satisfy such judgment; provided, nothing in this section contained shall be construed to affect mechanics' or laborers' liens.

Bequest to state.

§ 11. Any person or persons making any such grant may, at any time thereafter, by last will or testament, devise and bequeath to the state of California all or any of the property, real and personal, mentioned in such grant, or in any supplemental grant, and such devise or bequest shall only take effect in case, from any cause whatever, the grant shall be annulled or set aside, or the trusts therein declared shall for any reason fail. Such devise and bequest is hereby permitted to be made by way of assurance that the wishes of the grantor or grantors shall be carried out, and in the faith that the state, in case it succeeds to the property, or any part thereof, will, to the extent and value of such

property, carry out, in respect to the objects and purposes of any such grant, all the wishes and intentions of the grantor or grantors; provided, that no wish, direction, act, or condition expressed, made, or given by any grantor or grantors, under or by virtue of this act, as to religious instruction to be given in such school, college, seminary, mechanical institute, museum, or gallery of art, or in respect to the exercise of religious belief, on the part of any pupil or pupils of such school or institution of learning, shall be binding upon the state; nor shall the state enforce, or permit to be enforced or carried out, any such wish, direction, act, or condition.

§ 12. This act shall be in force from and after its passage.

ACT 4164.

An act supplemental to an act entitled "An act to advance learning, the arts and sciences, and to promote the public welfare, by providing for the conveyance, holding, and protection of property, and the creation of trusts for the founding, endowment, erection, and maintenance within this state of universities, colleges, schools, seminaries of learning, mechanical institutes, museums, and galleries of art," approved March 9, 1885, concerning the resignation, relinquishment or surrender of rights, powers, privileges and duties reserved to or vesting in the founder or founders, surviving founder, or wife or widow of any founder, of any institution created or founded under or pursuant to said act, and concerning the assumption and exercise of powers and duties by the trustee or trustees of such institution.

[Approved March 13, 1903. Stats. 1903, p. 140.]

§ 1. The founder or founders, surviving founder, or wife or widow of any founder, of a university, college, school, seminary of learning, mechanical institute, museum, gallery of art, library or any other institution, or any or all thereof, founded under or pursuant to an act entitled "An act to advance learning, the arts and sciences, and to promote the public welfare, by providing for the conveyance, holding, and protection of property, and the creation of trusts for the founding, endowment, erection, and maintenance within this state of universities, colleges, schools, seminaries of learning, mechanical institutes, museums, and galleries of art," approved March 9, 1885, may, by an instrument in writing, resign, relinquish and surrender all the rights, powers, privileges and duties reserved to or vesting in such founder or founders, surviving founder, or wife or widow of such founder, over, in, or concerning any of the property granted or given to such institution or institutions, or over or concerning any such institution or institutions so founded, and thereupon all estates, rights, powers, privileges, trusts and duties which would otherwise vest in or devolve upon the trustee or trustees of the trusts and estates created for the founding, endowment and maintenance of any such institution or institutions upon the death of the person or persons so resigning, relinquishing and surrendering, by the terms of the

grant founding the institution or institutions, and amendments thereof, and by the terms of any grants, gifts, bequests, and devises supplementary thereto, or of any confirmatory grants, shall immediately vest in and devolve upon such trustee or trustees. Nothing herein contained shall prevent such person or persons so resigning, relinquishing and surrendering such rights, powers, privileges, or duties from thereafter becoming and serving as one of such trustees, or from becoming and serving as an officer of any board of such trustees.

§ 2. This act shall take effect and be in force from and after its passage.

ACT 4165.

An act to provide for proceedings for the ascertainment of the existence and terms of, and for the determination of the validity and legal effect of grants or other instruments creating, changing or affecting trusts and estates for the founding, endowment and maintenance of a university, college, school, seminary of learning, mechanical institute, museum, gallery of art, or library, or any other institution, or any or all thereof, under or pursuant to an act entitled "An act to advance learning, the arts and sciences, and to promote the public welfare, by providing for the conveyance, holding, and protection of property, and the creation of trusts for the founding, endowment, erection, and maintenance within this state of universities, colleges, schools, seminaries of learning, mechanical institutes, museums, and galleries of art," approved March 9, 1885, or under or pursuant to an act entitled "An act to encourage and provide for the dissemination of a knowledge of the arts, sciences, and general literature, and the founding, maintaining, and perpetuating public libraries, museums, and galleries of art, and the receipt of donations and contributions thereto when established; for the conveyance, holding and protection of real property within this state suitable for the purposes herein designated, and the erection thereon of buildings appropriate to such purposes, and for the creation of trusts necessary or proper for the better preservation of such institutions, and the control and management thereof," approved March 5, 1887.

[Approved February 10, 1903. Stats. 1903, p. 9.]

§ 1. The trustee or trustees of any trust or trusts heretofore or hereafter created for the founding, endowment and maintenance of a university, college, school, seminary of learning, mechanical institute, museum, gallery of art, library or other institution, or any or all thereof, under or pursuant to an act entitled "An act to advance learning, the arts and sciences, and to promote the public welfare, by providing for the conveyance, holding, and protection of property, and the creation of trusts for the founding, endowment, erection, and maintenance within this state of universities, colleges, schools, seminaries of learning, mechanical institutes, museums, and galleries of art," approved March 9, 1885, or under or pursuant to an act entitled "An act to encourage and

provide for the dissemination of a knowledge of the arts, sciences, and general literature, and the founding, maintaining, and perpetuating public libraries, museums, and galleries of art, and the receipt of donations and contributions thereto when established; for the conveyance, holding and protection of real property within this state suitable for the purposes herein designated, and the erection thereon of buildings appropriate to such purposes, and for the creation of trusts necessary or proper for the better preservation of such institutions, and the control and management thereof," approved March 5, 1887, may commence a special proceeding in and by which may be determined all questions of law and fact affecting the existence of, and the due and voluntary execution and delivery, and the terms, validity and legal effect of the grant or grants founding the same, and of all amendments or attempted amendments thereof, and of any supplemental grants or gifts, and of any confirmatory conveyances, of the founder or founders, or surviving founder, or wife or widow of any such founder; and in and by which may be determined all questions of law and fact affecting the due and voluntary execution and delivery, and the validity and legal effect, of any gift or grant made in general terms for the benefit of the institution or institutions, or of any department thereof, or of any gift or grant made in general terms for the benefit of the institution or institutions, or of any department thereof, upon the trusts provided for in the grant founding the institution or institutions, and amendments thereof and grants, bequests and devises supplementary thereto; and in and by which may be determined all questions bearing upon the passing to the trustee or trustees of the legal title to the properties, real and personal, conveyed or attempted to be conveyed, so far as such property or the proceeds thereof, or any property acquired in exchange therefor or with proceeds thereof, may be described in the petition herein provided for, and the interest or title of the trustee or trustees in or to any such property described in such petition; and in and by which may be determined all questions of law and fact affecting the due and voluntary execution and delivery, and the validity and legal effect, of any grant or surrender by any such founder or founders, surviving founder, or wife or widow of any founder, to, or in favor of, such trustee or trustees, of any rights, powers, privileges or duties reserved to or vesting in any such person or persons over or concerning any property described in the petition herein provided for, or over or concerning any such institution or institutions so founded, which would otherwise vest in or devolve upon such trustee or trustees upon the death of the person or persons so granting or surrendering the same, and of any relinquishment or release by the founder or founders, surviving founder, or wife or widow of any founder, of any other such rights, powers, privileges, or duties so reserved to or vesting in any such person or persons. To this end the trustee or trustees of any trust hereinbefore referred to, in the name of the institution or institutions so founded, or in the name of the trustee or trustees of such institution or institutions, or in the name of the board of trustees of such institution or institutions, may file, in the superior

court of the county in which the lands described in the founding grant or grants, or some lands described in the founding grant or grants, or some portion thereof, are situated, or, if no real estate has been granted as herein provided to such trustees, then in the county where the main part of any such institution or institutions is situated, a petition in writing, signed by counsel for such trustee or trustees, or by counsel for a majority thereof, which petition shall contain copies of all such grants, amendments, attempted amendments, supplemental grants, instruments of gift, confirmatory conveyances, and grants and instruments of surrender, relinquishment or release, hereinbefore mentioned or referred to, so far as known to such trustee or trustees; and the petition shall allege in general terms the due and voluntary execution and delivery, and the validity, of any and all of such instruments, copies of which are set out in the petition, and shall describe all property, real and personal, the legal title to which is held or claimed to be held by said trustee or trustees under or by virtue of any or all of such instruments, whether or not the same be the original property conveyed, the proceeds thereof, or re-invested proceeds; and the petition shall allege in general terms the estate or interest which the trustee or trustees have or claim in or to the property described; and the petition shall pray, in effect, that the court examine and determine all questions of law and fact affecting the due and voluntary execution and delivery, and the terms, validity and legal effect of all such instruments, copies of which are so set out in the petition; and that the court examine and determine all questions bearing upon the passing to the trustee or trustees, of the legal title to all the properties, real and personal, so conveyed or attempted to be conveyed, so far as the same or the proceeds thereof, or any property acquired in exchange therefor or with the proceeds thereof, may be described in said petition; and that the court examine and determine the interest or title of the trustee or trustees in or to any such property; and that it be established and determined that the trustee or trustees are rightfully vested with the legal title thereto.

§ 2. The court or judge shall fix the time for the hearing of said petition, and shall order the clerk of the court to post in at least three public places in the county a notice of the filing of said petition, attached to a copy of said petition, and order a copy of such notice together with a copy of the petition to be personally served upon the founder or founders, if living, and upon the surviving wife or widow of any founder, and upon any living grantor or donor of any other grant or gift set out in the petition, and may order such other or further notice to be given as the judge or court may deem proper. Such notice shall be posted and served at least ten days before the hearing. If the court or judge finds upon the hearing that due and proper notice has not been given as herein provided, it shall reset the hearing and cause such due and proper notice to be given. The notice and petition shall be entitled substantially in the following form:

In the superior court of the — county of —, state of California.

In the matter of the petition of — (giving the name or names in which the petition is brought) for the ascertainment of the existence and terms of, and for the determination of the validity and legal effect of grants or other instruments creating, changing or affecting trusts and estates for the founding, endowment and maintenance of — (naming the institution or institutions founded).

The notice shall state the time and place fixed for the hearing of the petition and shall be addressed to the founder or founders, living, and to the surviving wife or widow of any founder, and the living grantor or donor of any other grant or gift set out in the petition, and in general terms to all other persons having or claiming any interest in, or rights, powers, or duties over or concerning the property described in the petition; and shall direct that they and each of such persons appear and answer said petition on or before the time set for said hearing; and shall state that unless said persons so appear and demur or answer, the petitioners will apply to the court to grant the prayer of the petition, and that each person failing to so appear and answer, shall be deemed to admit as true all the material allegations of the petition.

Any of the persons so required to be served, or any other persons so interested may waive notice by written waiver filed with the clerk of the court.

§ 3. Any person interested in the determination of any of the questions presented by the petition may demur to or answer said petition and may set up any new matter affecting the determination of any such questions. Any allegation of the petition or answer may be made upon information and belief. The provisions of the Code of Civil Procedure respecting the demurrer and the answer to a verified complaint, shall be applicable to a demurrer or answer to said petition. The persons so demurring to or answering said petition shall be the defendants to said special proceeding and the petitioners shall be the plaintiffs. Every material statement of the petition not specifically controverted by the answer must, for the purposes of said special proceeding, be taken as true; and each person failing to answer the petition shall be deemed to admit as true all the material allegations of the petition. The rules of pleading and practice provided for by the Code of Civil Procedure, which are not inconsistent with the provisions of this act, are applicable to the special proceeding herein provided for.

§ 4. Upon the hearing of such special proceeding, the court shall have power and jurisdiction to examine into and determine all questions of law and fact within the scope of the proceeding herein provided for, whether presented by the petition or answer, or by the proofs upon the hearing.

The court shall find and determine whether the notice of the filing of said petition has been duly given for the time and in the manner in this act prescribed.

The costs of the special proceeding may be allowed and apportioned between all parties, in the discretion of the court.

§ 5. A certified copy of the judgment of the court in such special proceeding shall be recorded in the office of the recorder of the county in which the action is brought and in the office of the recorder of every county in which any of the real property affected is situated.

§ 6. The judgment of the court in such special proceeding shall be determinative of the terms and trusts upon which any property thereafter given for the benefit of such institution or institutions, or any department thereof, shall be held by such trustee or trustees, unless otherwise provided by the grantor or donor of such property.

§ 7. This act shall take effect and be in force from and after its passage.

ACT 4166.

An act to define trust and to provide for criminal penalties and civil damages, and punishment of corporations, persons, firms, and associations, or persons connected with them, and to promote free competition in commerce and all classes of business in this state.

[Approved March 23, 1907. Stats. 1907, p. 984.]

Amended 1909, p. 593.

A trust defined. Exception.

§ 1. A trust is a combination of capital, skill or acts by two or more persons, firms, partnerships, corporations or associations of persons, or of any two or more of them for either, any or all of the following purposes:

1. To create or carry out restrictions in trade or commerce.
2. To limit or reduce the production, or increase the price of merchandise or of any commodity.
3. To prevent competition in manufacturing, making, transportation, sale or purchase of merchandise, produce or any commodity.
4. To fix at any standard or figure, whereby its price to the public or consumer shall be in any manner controlled or established, any article or commodity of merchandise, produce or commerce intended for sale, barter, use or consumption in this state.

5. To make or enter into or execute or carry out any contracts, obligations or agreements of any kind or description, by which they shall bind or have bound themselves not to sell, dispose of or transport any article or any commodity or any article of trade, use, merchandise, commerce or consumption below a common standard figure, or fixed value, or by which they shall agree in any manner to keep the price of such article, commodity or transportation at a fixed or graduated figure, or by which they shall in any manner establish or settle the price of any article, commodity or transportation between them or themselves and others, so as to directly or indirectly preclude a free and unrestricted competition among themselves, or any purchasers or consumers in the sale or trans-

titles to recover from the person owning or conducting such business as in the foregoing sections mentioned, in any court of competent jurisdiction, three times the amount of such shortage in weight of the grain or other commodity so delivered or taken out by him.

TITLE 562.**WEST SIDE IRRIGATION DISTRICT.****ACT 4382.**

Act creating. [Stats. 1875-76, p. 731.]

Supplemented 1875-76, p. 885. Superseded by 1877-78, p. 468. Repealed as to Contra Costa and Alameda counties, 1877-78, p. 887.

TITLE 563.**WHARFINGERS.****ACT 4393.**

In relation to warehouse and wharfinger receipts, and other matters pertaining thereto. [Stats. 1877-78, p. 949.]

Citations. Cal. 75/855; 108/140, 141; 111/880.

Codified by §§ 1858-1858f of Civil Code.

TITLE 564.**WHARVES.**

The Political Code, §§ 2906 et seq., 2520 et seq. and 2567 et seq., seems to have superseded the old legislation on the subject of wharves.

ACT 4398.

Authorizing supervisors of counties to grant the right to construct wharves. [Stats. 1858, p. 120.]

Amended 1869-70, p. 526; 1871-72, p. 908. Superseded by Political Code, 2906 et seq.

TITLE 565.**WHEATLAND.****ACT 4403.**

Incorporation of. [Stats. 1873-74, p. 351.]

Amended 1875-76, p. 19; 1877-78, p. 441. Superseded by incorporating, in 1891, under Municipal Corporation Act of 1883.

TITLE 566.**WHITTIER STATE SCHOOL.****ACT 4408.**

To establish the Whittier Reform School for Juvenile Offenders. [Stats. 1889, p. 111.]

Amended 1898, p. 328; 1905, p. 80; 1907, p. 2; 1909, p. 988.

Citations. Cal. 93/639; 110/658; 117/536; 122/296, 297, 298, 299, 300-301; 138/495. App. 8/740; 5/471, 472, 478.

In full in Appendix to Penal Code, p. 868.

agent, servant or employee, or in any other capacity, knowingly carry out any of the stipulations, purposes, prices, rates, or furnish any information to assist in carrying out such purposes, or orders thereunder or in pursuance thereof, shall be punished by a fine of not less than fifty (\$50) dollars nor more than five thousand (\$5,000) dollars, or be imprisoned not less than six months nor more than one year, or by both such fine and imprisonment. Each day's violation of this provision shall constitute a separate offense.

What indictment must set out.

§ 5. In any indictment, information or complaint for any offense named in this act, it is sufficient to state the purpose or effects of the trust or combination, and that the accused is a member of, acted with or in pursuance of it, or aided or assisted in carrying out its purposes, without giving its name or description, or how, when and where it was created.

Prosecutions, what to prove. Books and papers must be produced when ordered.

§ 6. In prosecutions under this act, it shall be sufficient to prove that a trust or combination, as defined herein, exists, and that the defendant belonged to it, or acted for or in connection with it, without proving all the members belonged to it, or proving or producing any article of agreement, or any written instrument on which it may have been based; or that it was evidenced by any written instrument at all. The character of the trust or combination alleged may be established by proof of its general reputation as such. In case any court of record, or in vacation any judge of said court in which is pending any civil, criminal or other action or proceeding brought or prosecuted by the attorney general or any district attorney for the violation of any of the provisions of this act or in any action or proceeding for the violation of the law of this state, against conspiracy or combination in restraint of trade so orders, no person so ordered shall be excused from attending, testifying or producing books, papers, schedules, contracts, agreements or any other document in obedience to the subpoena or under the order of such court or any commissioner or referee appointed by said court to take testimony or any notary public or other person or officer authorized by the laws of this state to take depositions when the order made by such court or judge thereof includes a witness whose deposition is being taken before such notary public or other officer on the ground or for the reason that the testimony or evidence required of him may tend to criminate him or subject him to any penalty; but no individual shall be prosecuted or subjected to any penalty for or on account of any transaction, matter or thing concerning which he may so testify or produce evidence, documentary or otherwise, before any such court, person or officer.

Penalty, after notice by attorney general.

§ 7. Each and every firm, person, partnership, corporation, or association of persons, who shall in any manner violate any of the provisions

of this act, shall be for each and every day that such violations shall be committed or continued, after due notice given by the attorney general or any district attorney, forfeit and pay the sum of fifty (\$50) dollars, which may be recovered in the name of the people of the state of California, in any county where the offense is committed, or where either of the offenders resides; and it shall be the duty of the attorney general, or the district attorney of any county on the order of the attorney general to prosecute for the recovery of the same. When the action is prosecuted by the attorney general against a corporation or association of persons, he may begin the action in the supreme court of the county in which defendant resides or does business.

Contracts in violation of act void.

§ 8. That any contract or agreement in violation of the provisions of this act, shall be absolutely void and shall not be enforceable either in law or equity.

Provisions cumulative.

§ 9. That the provisions hereof shall be held cumulative of each other and of all other laws in any way affecting them now in force in this state.

Trust certificates not lawful.

§ 10. It shall not be lawful for any person, partnership, association or corporation, or any agent thereof, to issue or to own trust certificates, or for any person, partnership, association or corporation, agent, officer, or employee, or the directors or stockholders of any corporation, to enter into any combination, contract or agreement with any person or persons, corporation, or corporations, or with any stockholder or director thereof, the purpose and effect of which combination, contract or agreement shall be to place the management or control of such combination or combinations, or the manufactured product thereof, in the hands of any trustee or trustees with the intent to limit or fix the price or lessen the production and sale of any article of commerce, use or consumption, or to prevent, restrict or diminish the manufacture or output of any such article, and any person, partnership, association or corporation that shall enter into any such combination, contract or agreement for the purpose aforesaid shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine not less than fifty dollars, nor more than five thousand dollars.

Persons injured in business by trust may sue.

§ 11. In addition to the criminal and civil penalties herein provided, any person who shall be injured in his business or property by any other person or corporation or association or partnership, by reason of anything forbidden or declared to be unlawful by this act, may sue therefor in any court having jurisdiction thereof in the county where the defendant resides or is found, or any agent resides or is found, or where service may be obtained, without respect to the amount in controversy, and to recover twofold the damages by him sustained, and the costs of suit. Whenever it shall appear to the court before which any proceed-

ings under this act may be pending, that the ends of justice require that other parties shall be brought before the court, the court may cause them to be made parties defendant and summoned, whether they reside in the county where such action is pending, or not.

"Person" defined.

§ 12. The word "person" or "persons" whenever used in this act, shall be deemed to include corporations, partnerships and associations existing under or authorized by the laws of this state or any other state, or any foreign country.

Labor not a commodity.

§ 13. Labor whether skilled or unskilled is not a commodity within the meaning of this act. [New section approved March 20, 1909. Stats. 1909, p. 594. In effect immediately.]

TITLE 532.

TULARE COUNTY.

ACT 4170.

Assessors, act fixing salary and bond of. [Stats. 1875-76, p. 172.]

Superseded by County Government Acts: See 1897, pp. 521, 585, §§ 170, 182.

ACT 4171.

Board of health, establishing. [Stats. 1877-78, p. 558.]

Superseded by subd. 20, § 25, County Government Act, 1897, p. 464.

ACT 4172.

County auditor and county recorder, separation of offices of, and regulation of official salaries in. [Stats. 1875-76, p. 151.]

Amended 1875-76, p. 363; 1877-78, p. 104. Repealed by County Government Acts: See 1897, p. 535, § 170.

ACT 4173.

Separating offices of county recorder and county clerk. [Stats. 1873-74, p. 60.]

Repealed by County Government Act, 1897, p. 473, § 55.

ACT 4174.

Public roads in. [Stats. 1873-74, p. 283.]

Amended 1875-76, p. 11. Repealed 1875-76, p. 531.

ACT 4175.

Making applicable to of act of February 21, 1872, p. 141, regulating the traveling fees of sheriff. [Stats. 1873-74, p. 45.]

Repealed 1877-78, p. 560.

ACT 4176.

Traveling fees of sheriff of. [Stats. 1877-78, p. 559.]

Repealed by fee bill of 1895, p. 269.

ACT 4177.

To increase the number of superior judges. [Stats. 1891, p. 61.]

ACT 4178.

To reduce the number of judges of the superior court. [Stats. 1895, p. 128.]

ACT 4179.

Tax collector, bonds of. [Stats. 1875-76, p. 16.]

Repealed by County Government Act, 1897, p. 475, § 66.

ACT 4180.

Concerning water ditches and water privileges for agricultural and manufacturing purposes in Tulare County. [Stats. 1867-68, p. 112.]

ACT 4181.

Concerning water ditches and water privileges in, for irrigating, mining and manufacturing purposes. [Stats. 1875-76, p. 547.]

TITLE 533.**TUOLUMNE COUNTY.****ACT 4186.**

Lawful fences in. [Stats. 1863-64, p. 475.]

ACT 4187.

To provide for care and maintenance of indigent sick of. [Stats. 1877-78, p. 596.]

Superseded by subd. 5, § 25, County Government Act, 1897, p. 458.

ACT 4188.

Township officers, regulating. [Stats. 1873-74, p. 453.]

Repealed by County Government Acts: See 1897, p. 474, § 56; also Code of Civil Procedure, § 103.

ACT 4189.

Salaries of certain officers of. [Stats. 1875-76, p. 45.]

Repealed by County Government Acts: See 1897, p. 556, § 197.

ACT 4190.

Supervisors, prescribing commencement of terms. [Stats. 1873-74, p. 154.]

Repealed by County Government Act, 1897, p. 452.

ACT 4191.

Treasurers of, bonds of. [Stats. 1875-76, p. 17.]

Repealed by County Government Acts: See 1897, p. 475, § 66.

TITLE 534.**TUOLUMNE RIVER.****ACT 4196.**

Authorizing the construction of a bridge across the Tuolumne River at Modesto. [Stats. 1877-78, p. 455.]

ACT 4197.

To declare the head of navigation in. [Stats. 1854, p. 203.]
See Political Code, § 2349.

TITLE 535.**TURNPIKE CORPORATIONS.****ACT 4202.**

To authorize formation of plank or turnpike road corporations. [Stats. 1857, p. 171.]

Repealed by Civil Code, § 288.

TITLE 536.**UKIAH.****ACT 4207.**

Incorporation of. [Stats. 1875-76, p. 162.]

Superseded by incorporation, in 1886, under Municipal Government Act of 1888.

UNINCORPORATED ASSOCIATIONS.

See "Benefit Societies"; "Board of Trade"; "Chambers of Commerce"; "Co-operative Associations"; "Mechanics' Institutes."

TITLE 537.**UNION.****ACT 4209.**

Incorporating town of Union. [Stats. 1858, p. 7.]
Amended 1869-70, p. 414; 1873-74, p. 280.
This is now Arcata, Stats. 1860, p. 109.

TITLE 538.**UNITED STATES.****ACT 4212.**

Giving the consent of the legislature of the state to the purchase by the United States of land within this state for public purposes. [Stats. 1852, p. 149.]

Superseded by Political Code, § 34.

ACT 4213.

Granting right of way to the United States for railroad from Atlantic to Pacific. [Stats. 1852, p. 150.]

ACT 4214.

Providing for the relinquishment to the United States of lands required for military or naval purposes. [Stats. 1859, p. 26.]

ACT 4215.

Ceding jurisdiction to the United States over lands near Lime Point.
[Stats. 1859, p. 334.]

TITLE 539.**UNITED STATES COAST SURVEY.****ACT 4220.**

To authorize persons engaged in United States coast survey to enter upon lands within the state. [Stats. 1852, p. 147.]

TITLE 540.**UNITED STATES FLAG.****ACT 4225.**

To prohibit the desecration of. [Approved March 2, 1899. Stats. 1899, p. 46.]

TITLE 541.**UNITED STATES SENATORS.****ACT 4230.**

To ascertain and express the will of the people of the state of California upon the subject of election of United States senators. [Approved March 10, 1891. Stats. 1891, p. 46.]

This act provided for submitting to the people at the general election following the passage of this act the question of the election of United States Senators by direct vote.

TITLE 542.**UNIVERSITY OF CALIFORNIA.****ACT 4239.**

An act to appropriate the sum of eighty-three thousand eight hundred (\$83,800) dollars for the use and benefit of the University of California, and specifying the duties of the controller and treasurer in relation thereto. [Approved June 14, 1906. Stats. 1906, p. 31.]

This act appropriated \$83,800 to restore the income of the University and to repair damages.

ACT 4240.

To create and organize the University of California. [Stats. 1867-68, p. 248.]

Amended 1871-72, p. 655.

Citations. Cal. 54/81, 33; 69/216; 71/120; 104/658; 123/617, 623; 153-777.

"Probably repealed by the code, but if so, revived and made irrevocable by § 9, art. IX, of the constitution of 1879."—Code Commissioners' Note.

ACT 4241.

For the endowment of. [Stats. 1869-70, p. 668.]

Citations. Cal. 123/619.

ACT 4242.

Permanent endowment for. [Stats. 1877-78, p. 337.]

ACT 4243.

To provide additional support and maintenance, and for the acquisition of necessary property and improvements for the University of California, by the levy of a rate of taxation, and the creation of a fund therefor. [Approved February 27, 1897. Stats. 1897, p. 44.]

Repealed 1909, p. 543.

Former act on this subject: See Stats. 1887, p. 2, which was repealed 1909, p. 543.

Citations. Cal. 123/628; 153/778.

ACT 4244.

An act to provide for the permanent support and improvement of the University of California by the levy of a rate of taxation and the creation of a fund therefor, and to repeal an act approved February 14, 1887, entitled: "An act to provide for the permanent support and improvement of the University of California by the levy of a rate of taxation and the creation of a fund therefor," and also to repeal an act approved February 27, 1897, entitled "An act to provide additional support and maintenance, and for the acquisition of necessary property and improvements of the University of California, by the levy of a rate of taxation, and the creation of a fund therefor."

[Approved March 20, 1909. Stats. 1909, p. 543.]

Tax for support of state university.

§ 1. There is hereby levied annually, for each fiscal year, an "ad valorem" tax of three cents upon each one hundred dollars of value of the taxable property of the state, which tax shall be collected by the several officers charged with the collection of state taxes, in the same manner and at the same time as other state taxes are collected, upon all or any class of property, which tax is for the support of the University of California.

Levy of tax.

§ 2. The state board of equalization, at the time when it annually determines the rate of state taxes to be collected, must at the same time declare the levy of said rate of three cents, and notify the auditor and board of supervisors of each county thereof.

Disposition of money.

§ 3. The money collected from said rate, after deducting the proportionate share of expenses of collecting the same to which other state taxes are subject, must be paid into the state treasury, and must be by the state treasurer converted into a separate fund, hereby created, to be called the "state university fund."

University to control fund absolutely.

§ 4. The money paid into the said "state university fund" is hereby appropriated, without reference to fiscal years, for the use and support of the University of California, and is exempted from the provisions of Part III, Title I, Article XVIII, of an act entitled "An act to establish a Political Code," approved March twelfth, eighteen hundred and seventy-two, relating to the board of examiners. When there is any money in the said fund, the same may be drawn out upon the order of the board of regents of the University of California, or such officers of the board as may be duly authorized thereto. Upon the receipt of the order, the controller must draw his warrant upon the state treasurer, payable to the order of the treasurer of the University of California, out of the said "state university fund."

How moneys must be applied.

§ 5. The money derived from said fund must be applied only to the support and permanent improvement of the university; provided, however, that not less than one-fourth of the revenues raised hereunder, during each of the first ten fiscal years after this act takes effect, shall be placed in a fund to be known and designated as the permanent building fund and which said fund must be devoted solely to the purposes of building, furnishing and equipping permanent buildings and providing permanent improvements for the university. The board of regents must include in its biennial report to the governor the statement of the manner and for what purposes all of the moneys referred to and raised under this act were expended.

Certain acts repealed.

§ 6. An act approved February 14, 1887, entitled: "An act to provide for the permanent support and improvement of the University of California by the levy of a rate of taxation and the creation of a fund therefor," is hereby repealed.

Same.

§ 7. An act approved February 27, 1897, entitled "An act to provide additional support and maintenance, and for the acquisition of necessary property and improvements of the University of California, by the levy of a rate of taxation, and the creation of a fund therefor," is hereby repealed.

§ 8. This act shall take effect immediately.**ACT 4245.**

To provide a continuous appropriation for the support and maintenance of the University of California, to be an item of the general appropriation bill. [Approved March 15, 1901. Stats. 1901, p. 307.]

This act appropriated the sum of \$200,000 biennially.

ACT 4246.

To grant to the regents of the University of California the north one-half of section sixteen, township seven south, of range three east, Mount Diablo meridian, and authorize the exchange thereof. [Approved March 16, 1889. Stats. 1889, p. 229.]

ACT 4247.

To appropriate money to reimburse the university for moneys heretofore appropriated to the endowment fund, which moneys have been by mistake withheld therefrom and appropriated to other state purposes. [Stats. 1881, p. 51.]

Repealed 1898, p. 77: See 1899, p. 98.

ACT 4248.

Appropriations for the benefit of. [Stats. 1901, p. 110.]

This act appropriated \$50,000 to supply a loss in the permanent fund to supply a loss through a mortgage made to one William O. Turner.

ACT 4249.

To provide for the better control of the funds of, and for the investment and security of the same. [Stats. 1883, p. 54.]

Citations. Cal. 66/608, 69/216.

Unconstitutional: People v. Kewan, 69 Cal. 215.

ACT 4250.

To authorize the insurance of all property of the University of California held for purposes of income against damages or loss. [Approved March 20, 1899. Stats. 1899, p. 152.]

ACT 4251.

Concerning the selection and sale of university lands. [Stats. 1873-74, p. 356.]

Amended 1880, p. 86.

This act also related to the determination of land contests.

ACT 4252.

An act authorizing the regents of the University of California to hold farmers' institutes, and making an appropriation therefor. [Approved April 14, 1909. Stats. 1909, p. 868.]

See also former acts in this subject in Stats. 1903, p. 205; 1905, p. 255; amended 1907, p. 176.

ACT 4253.

Intoxicating liquors, prohibiting sale of within two miles of. [Stats. 1873-74, p. 12.]

Codified by § 172 of Penal Code: See note to § 172, Penal Code.

ACT 4254.

Appropriating two hundred and fifty thousand dollars for the erection of buildings for the use of affiliated and other departments of the University of California. [Stats. 1895, p. 69.]

ACT 4255.

To appropriate one hundred and twenty-five thousand dollars for the erection of buildings for the use of affiliated and other departments of the University of California, in San Francisco. [Approved February 23, 1897. Stats. 1897, p. 14.]

ACT 4256.

Concerning the medical department of. [Stats. 1881, p. 24.]

ACT 4256a.

An act authorizing the board of regents of the University of California to exchange the tract of land now constituting the Santa Monica Forestry Station. [Approved March 20, 1905. Stats. 1905, p. 369.]

ACT 4257.

An act to create a department of music in the university of the State of California; to provide a professorship of music and to appropriate money therefor. [Approved March 22, 1905. Stats. 1905, p. 801.]

ACT 4258.

An act providing for the establishment and maintenance of a pathological laboratory, for the investigation of tree and plant diseases and pests, and branch agricultural experiment station, and making an appropriation therefor. [Approved March 18, 1905. Stats. 1905, p. 249.]

ACT 4259.

An act to provide for experiment and research work in viticulture, directing publication of the results of experiments and investigations, making an appropriation therefor and prescribing the duties of the controller and treasurer in relation thereto. [Approved April 14, 1909. Stats. 1909, p. 866.]

ACT 4260.

An act to establish and maintain a state hygienic laboratory for bacteriological and chemical analysis for the use of the state board of health, providing for the appointment of a director thereof, and assistants; making an appropriation therefor and prescribing the duties of the state controller and state treasurer in relation thereto. [Approved March 18, 1905. Stats. 1905, p. 209.]

ACT 4261.

An act providing for the purchase of a university farm for the use of the college of agriculture of the University of California; providing for the appointment of a commission to select and purchase said

farm, providing for a school of agriculture and a system of instruction on said farm and appropriating money therefor. [Approved March 18, 1905. Stats. 1905, p. 131.]

See also Act of 1907, p. 58, appropriating \$182,000 for buildings, implements, etc., for the University farm.

ACT 4262.

An act making an appropriation for the investigation of agricultural and horticultural problems and conditions in Imperial County, and providing for the establishment in said county of a branch agricultural and experiment station for the purpose of prosecuting said work. [Approved April 14, 1909. Stats. 1909, p. 865.]

ACT 4263.

An act to appropriate the sum of one hundred and one thousand three hundred and fourteen dollars (\$101,314) for the use and benefit of the University of California, and specifying the duties of the controller and treasurer of state in relation thereto. [Approved April 14, 1909. Stats. 1909, p. 862.]

This appropriation was made to replace and restore income of University lost through disaster and fire.

TITLE 543. VAGRANCY.

ACT 4264.

To punish vagrants, vagabonds and dangerous and suspicious persons. [Stats. 1855, p. 217.]

Amended 1856, p. 82; 1863, p. 1770. Superseded by Penal Code, § 647.

TITLE 544. VALLEJO.

ACT 4265.

Charter of. [Stats. 1899, p. 370.]

Amended Stats. 1907, p. 1245.

Citations. Cal. 189/168; 146/397.

ACT 4266.

To incorporate the town of Vallejo. [Stats. 1865-66, p. 431.]

Superseded by the charter, Stats. 1899, p. 370.

ACT 4267.

To incorporate. [Stats. 1871-72, p. 566.]

Amended 1871-72, p. 757; 1873-74, pp. 860, 881; 1875-76, p. 25; 1877-78, p. 998. Superseded by charter of Vallejo, 1899, p. 370.

ACT 4268.

Vallejo township, board of education, establishing. [Stats. 1873-74, p. 160.]

Amended 1875-76, p. 9.

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The code commissioners say of this act: "But if the city of Vallejo is a part thereof, this statute is modified or repealed by the charter of that city, 1896 p. 870."

TITLE 545.**VENTURA COUNTY.****ACT 4273.**

Creating and establishing boundaries of. [Stats. 1871-72, p. 484.]

Amended 1873-74, p. 365, § 4. Section 15 repealed by Political Code, § 791.

ACT 4274.

Legal distances, defining. [Stats. 1873-74, p. 21.]

Repealed by Political Code, § 205.

ACT 4275.

Fixing salaries of certain officers of. [Stats. 1873-74, p. 618.]

Repealed as to county judges by the constitution of 1879, and as to the other offices by the County Government Acts: See 1897, p. 452.

ACT 4276.

Bonds of officers of. [Stats. 1877-78, p. 334.]

Repealed by County Government Acts: See 1897, p. 475, § 66.

TITLE 546.**VETERANS' HOME.****ACT 4281.**

To provide for the erection of a modern hospital for the Veterans' Home located at Yountville. [Stats. 1901, p. 823.]

ACT 4282.

To recognize the Veterans' Home at Yountville as a state home for the maintenance of disabled soldiers and sailors of the United States and to designate an officer to receive money appropriated by the United States on account of said home. [Stats. 1889, p. 418.]

Citations. App. 8/532, 534.

ACT 4283.

To accept from the Veterans' Home Association the conveyance of, and to vest the title in the state of California, to the tract of land in Napa County known as the Veterans' Home, with the improvements and furnishings thereon, to make the same a state home for United States soldiers, sailors, and marines, and to provide for the government thereof by the state. [Approved March 11, 1897. Stats. 1897, p. 106.]

Amended 1903, p. 321; 1905, p. 471; 1907, pp. 59, 380.

ACT 4284.

Authorizing associated veterans of Mexican war to exchange or lease lands. [Stats. 1871-72, p. 363.]

Amended 1881, p. 66.

ACT 4285.

To authorize directors of the Veterans' Home Association to exchange certain lands in San Francisco for certain other property belonging to said city and county or for a lease of said property. [Stats. 1891, p. 184.]

ACT 4286.

Appropriation for support of indigent persons residing in Veterans' Home. [Stats. 1883, p. 55.]

Amended 1887, p. 6; 1893, p. 214; 1899, p. 147; 1901, p. 275; 1905, p. 191; 1907, p. 193. The amendatory act of 1907 was also repealed 1909, p. 79.

ACT 4287.

To enable any county, city and county, city or town to lease property to any association of veteran soldiers, sailors, or marines. [Stats. 1897, p. 113.]

ACT 4288.

Authorizing the state treasurer to pay over to the treasurer of the Veterans' Home Association moneys received by him under an act of Congress. [Stats. 1895, p. 26.]

ACT 4289.

An act to authorize and provide for the transfer of the Veterans' Home of California, its property, management, control and support to the government of the United States, its officers and authorities, to be conducted as a national home under such laws as now exist or which may hereafter be enacted by Congress; and for the conveying of the property of said home, both real and personal, belonging to the state of California, situate in Napa County, to the government of the United States, for such purpose. [Approved March 20, 1905. Stats. 1905, p. 495.]

ACT 4290.

An act authorizing the directors of the Veterans' Home of California to purchase and take over, for the state of California, to be used, and controlled by said board in the interests of the Veterans' Home of California, a certain piece of land adjoining the premises of the said Veterans' Home of California in the county of Napa, and appropriating the sum of three thousand dollars to pay for the purchase of the same. [Approved March 18, 1905. Stats. 1905, p. 167.]

TITLE 547.**VETERINARY SURGERY.****ACT 4293.**

An act entitled an act to regulate the practice of veterinary medicine and surgery in the state of California. [Approved March 23, 1893. Stats. 1893, p. 286.]

Amended 1908, p. 258.

The title of the next act states that this act is repealed, but there is no mention of this act in the body of Act 4294 beyond a general reference to it.

ACT 4294.

An act to insure the better education of practitioners of veterinary medicine, and to regulate the practice of veterinary medicine in the state of California, to provide for the creation of a board of five members who shall act under and in accordance with the provisions of this act; to provide for their appointment, and define their powers, duties and compensation; to define offenses committed by acts done contrary to the provisions of this act, and providing penalties for the violation thereof; providing for the revocation or suspension, in certain cases, of licenses issued hereunder, and to repeal an act entitled "An act to regulate the practice of veterinary medicine and surgery in the state of California," approved March 23, 1893, amended and approved March 20, 1903, and all other laws in conflict herewith.

[Approved March 23, 1907. Stats. 1907, p. 919.]

Board of examiners in veterinary medicine. Term of office. Removals.

§ 1. That there be, and is hereby, created a board of examiners in veterinary medicine, to be appointed by the governor of the state of California, which shall consist of five reputable practitioners of veterinary medicine who shall have graduated from some college authorized by law to confer degrees, each of whom shall have been a bona fide resident of said state for three years last past before appointment, and each, during said period, shall have been actually engaged in the practice of his profession in said state. The appointments first made shall be one for one year, one for two years, one for three years, and two for four years, and thereafter appointments shall be made for a period of four years, except appointments to fill vacancies, in which case the appointments shall be made for the remainder of the unexpired terms; provided, that the governor may, in his judgment, remove any member of said board for neglect of duty or other sufficient cause, after due notice and hearing.

Organization of board. Official records. Bonds of officers.

§ 2. That the said board of examiners in veterinary medicine shall elect a president, vice-president, secretary, and such other officers as shall be necessary. The secretary of said board shall have power to administer oaths or affirmations upon such matters as pertain to the business of said board, and any person willfully making any false oath or affirmation shall be deemed guilty of perjury; and said board shall make, alter, or amend, subject to the approval of the governor, such rules and regulations as may be necessary to carry into effect the provisions of this act, and shall hold such meetings as shall be necessary for the transaction of business, and shall issue all licenses to practice veterinary medicine in the state of California. Said board shall keep an official record of its meetings, and also an official register of all applicants for licenses, which register shall show the name, age, place, and duration of residence of each applicant, the time spent in the study of veterinary medicine in and out of medical schools, and the names and locations of

all medical schools which have granted said applicant any degree or certificate of attendance upon lectures, and it shall also show whether said applicant was rejected or licensed under this act, and said register shall be prima facie evidence of all matters contained therein. The board shall have the power to require any or all officers of said board to give a bond to the state of California in such form and penalty as it may deem proper. The said board shall in the month of July in each year submit to the governor a full report of its transactions during the twelve months immediately preceding.

Applications for license to practice. Application fee. Examinations.

§ 3. That from and after the passage of this act all persons desiring to practice veterinary medicine or any branch thereof in the state of California, or who shall desire to hold themselves out to the public as practicing veterinary medicine or any branch thereof in the state of California, shall make application to said board of examiners in veterinary medicine for a license so to do. Application for this purpose shall be upon a form furnished by said board, and shall be accompanied by satisfactory evidence of good moral character, and by a diploma from some veterinary college authorized by law to confer the same, which college shall require at least two sessions of study of veterinary medicine of not less than six months each prior to the issue of such diploma, and graduates of two-year colleges shall accompany their diplomas by satisfactory evidence that they have practiced veterinary medicine for five years last past subsequent to the issue of such diplomas. Every person applying to the board of examiners in veterinary medicine for a license to practice veterinary medicine shall pay to the board a fee of ten dollars, which fee in no case shall be refunded, and from the fund thus created the board shall pay such necessary expenses as it may incur. Such expenses shall not exceed in any one fiscal year the amount of fees collected during that period, but if any balance remain after paying all such expenses it shall be paid into the state school fund, except as hereinabove provided. Said board shall, by means of examinations, ascertain the professional qualifications of all applicants for license to practice veterinary medicine in said state, and shall issue such licenses to all who are found by such examinations to be, in the judgment of said board, competent to so practice; and no such license shall be issued to any person who has not so demonstrated his competence, except as hereinafter otherwise provided. Such examinations shall be held in January, April, July, and October of each year, and shall include all such subjects as are ordinarily included in the curricula of veterinary colleges in good standing, but examinations may be held at such other times and include such other subjects as said board shall authorize and direct. Said board shall number consecutively all applications received, note upon each the disposition made of it, and preserve the same for reference, and shall number consecutively all licenses issued.

Arrangements with boards of other states.

§ 4. That said board of examiners, so far as may be possible, shall make arrangements with analogous boards of the several states and terri-

tories whereby due credit for state and territorial licenses will be allowed in the state of California to such licentiates of said boards as desire to secure licenses to practice veterinary medicine in this state, and whereby licentiates of the board of examiners in veterinary medicine in the state of California will secure due credit for licenses issued by said board whenever such licentiates desire to secure licenses to practice veterinary medicine in any state or territory; but no arrangements shall be made under the provisions of this section which will be liable to lower the standard of practice of veterinary medicine in the state of California, and no arrangement for the mutual recognition of licenses shall be valid until it has been approved by the governor of the state of California.

Appeal of applicant when license has been refused. Board of review.

§5. That any person having been examined by said board of examiners in veterinary medicine and having been refused a license as the result of such examination may, within thirty days after formal notification of such refusal, appeal from the decision of said board. Such appeal must be in writing, addressed to the governor of the state of California, setting forth the ground upon which it is based, and accompanied by a deposit of thirty dollars. If, after examination of said appeal, the governor deem it proper, he shall appoint a board of review, consisting of three practitioners of veterinary medicine having qualifications similar to those required of members of the regular board of examiners in veterinary medicine, which board shall review the examination of appellant, and if they deem necessary re-examine him and report their finding to the governor; and such finding shall be final and binding upon all parties concerned, and if favorable to the appellant the board of examiners in veterinary medicine shall issue to him a license to practice veterinary medicine in said state. Each member of said board of review shall be paid a fee of not more than ten dollars for each candidate examined, payment to be made from the deposit of the appellant if the finding is adverse to him, but otherwise from the funds of the board of examiners. If favorable, the amount deposited shall be returned to the appellant.

License must be displayed.

§6. That every person practicing veterinary medicine in the state of California, or representing himself or permitting himself to be represented as so practicing, shall display or cause to be displayed conspicuously in his usual place of business his license to practice in said state. Said place of business shall, during all reasonable hours, be open to inspection by any representative of the police department or of the board of examiners in veterinary medicine of said state, so far as may be necessary to examine such licenses, and it shall be unlawful for any person to interfere with any inspection made or intended to be made for this purpose.

Practicing veterinarian defined.

§7. That from and after the passage of this act any person shall be regarded as practicing veterinary medicine in the state of California who

shall, in said state, append or cause to be appended to his name the letters V. S., D. V. M., V. M. D., M. D. V., M. D. C., D. V. S., or M. R. C. V. S., or the words "veterinary," "veterinarian," "veterinary surgeon," or "veterinary dentist," "veterinary farrier," "veterinary horse-shoer," "horse dentist," or "horse doctor," or who shall prescribe, advise, or apply any drug or medicine or other agency, or who shall perform any operation for the treatment, relief, or cure of any sick, diseased, or injured lower animal, or for commercial purposes, or who shall publicly profess to do any of these things, and shall charge or receive therefor money or other compensation, directly or indirectly; provided, nothing in this act shall be construed to prohibit members of the medical profession from prescribing for domestic animals in case of emergency, and collecting a fee therefor, nor to prohibit gratuitous services in an emergency, nor to prevent any person from practicing veterinary medicine on any animal belonging to himself or herself.

Present rights not affected.

§ 8. That this act shall not affect the rights under the laws of the state of California of veterinarians to practice veterinary medicine who have lawful rights to practice veterinary medicine at the time of the passage of this act; and provided further, that this act shall not apply to veterinary surgeons in the employ of the United States army, nor to regularly licensed veterinarians in actual consultation from other states, nor to regularly licensed veterinarians actually called from other states to attend cases in the state of California, but who do not open an office or appoint a place to do business within said state, nor to employees of licensed veterinarians legally qualified to practice as such under the provisions of this act.

License may be suspended or revoked, when.

§ 9. That the board of examiners in veterinary medicine hereby created may, by a vote of four members, revoke or suspend for a certain time the license of any person to practice veterinary medicine or any branch thereof in the state of California after notice and hearing, for any of the following causes, namely: The employment of fraud or deception in passing the examinations or in obtaining a license, chronic inebriety, or conviction of crime involving moral turpitude. The form of complaint, the form and length of notice, and the time and procedure of hearing charges against any licensee for any of the above causes shall be as near as possible according to the provisions of Title XI of the Code of Civil Procedure and the president of the board shall sign all papers, writs and process.

Violation of act a misdemeanor.

§ 10. That any person who shall violate or aid or abet in violating any of the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not more than two hundred dollars or by imprisonment in the county jail for not more than six months, or by both such fine and imprisonment.

Quorum of board.

§ 11. That three members of the board of examiners in veterinary medicine in the state of California shall constitute a quorum for the transaction of business at any meeting of the board, except as provided in section 9 of this act.

§ 12. That this act shall take effect immediately, and all laws in conflict with this act are hereby repealed.

TITLE 548.**VISALIA.****ACT 4298.**

Incorporating, and providing for public schools therein. [Stats. 1873-74, p. 171.]

Amended 1875-76, p. 119. Superseded by incorporating in 1900, under statute of 1888.

ACT 4299.

[Quieting title to town lots in. Stats. 1877-78, p. 363.]

TITLE 549.**VITICULTURE.****ACT 4304.**

To define and enlarge the powers and duties of the state viticultural commissioners, to authorize the appointment of certain officers, and to protect the interests of horticulture and agriculture. [Stats. 1881, p. 51.]

Enlarged 1885, p. 9. Repealed 1895, p. 235.

Unconstitutional in part: Ex parte Cox, 68 Cal. 21.

ACT 4305.

To enlarge the duties of the board of state viticultural commissioners. [Stats. 1885, p. 9.]

Repealed 1895, p. 235.

ACT 4306.

For the promotion of the viticultural industries of the state. [Stats. 1880, p. 52.]

Enlarged 1881, p. 51; 1885, p. 9. Certain sections repealed 1895, p. 235.

This act provided for the creation of viticultural districts and the appointment of viticultural commissioners.

ACT 4307.

An act for the protection of the viticultural interests of the state, and making an appropriation therefor.

[Approved March 26, 1903. Stats. 1903, p. 522.]

§ 1. The regents and the president of the University of California are hereby directed to cause to be prosecuted with all possible diligence,

in connection with and in addition to the work heretofore carried on by the agricultural experiment station, experimental and research work in the field of viticulture, including both cultural and industrial processes. They are directed to ascertain the adaptation of the various kinds of vines to the several climatic and soil conditions of the state, with the special reference to those stocks for propagating purposes, resistant to the phylloxera, and to further their adaptability and utility as grafting stocks for producing wine, raisin and table grapes. They are directed to ascertain the best methods of grafting and propagating said stocks and vines, together with the most important methods of vinification and the preparation, manufacture and application of yeasts in vinification and distillation. They are further directed to report upon the utilization of the by-products of the vineyard and winery, the study and treatment of the vine diseases and all matters appertaining to the viticultural industry, pertinent to the successful conduct of the business and that may be of general public interest, use and profit. They are further directed to publish the result of said experiments and investigations in form of bulletins from time to time, as may seem advisable, and not less than two bulletins showing the progress and result of the work, shall be issued in any fiscal year.

§ 2. The sum of three thousand dollars (\$3,000) is hereby appropriated out of any money in the treasury not otherwise appropriated, for the purpose of carrying into effect the provisions of this act; said money to be paid to the regents of the University of California, to be expended by them through the agricultural department of the university during the two years beginning July 1, 1903. The controller of the state is hereby directed to draw his warrant for such payments as requested by said regents of the state university of California, and the treasurer of the state is hereby directed to pay the same.

§ 3. This act shall take effect and be in force from and after its passage.

TITLE 550.

WAGON ROAD CORPORATIONS.

ACT 4312.

To provide for the formation of. [Stats. 1853, p. 114.]

Amended 1856, p. 71.

Citations. Cal. 122/338.

This act was repealed by the later act of March 12, 1853. Stats. 1853, p. 169, in regard to the formation of wagon-road corporations, being inconsistent with it: See *People ex rel. Waugh v. Auburn etc. Tp. Co.*, 122 Cal. 335.

TITLE 551.
WAREHOUSES.

ACT 4317.

To authorize the keepers of warehouses to sell goods on storage after certain period. [Stats. 1851, p. 170.]

This act is probably superseded by the provisions of the code relating to storage. In the absence of positive legislation it is difficult to determine what, if any, part of it is in force.

ACT 4318.

Relating to warehouse and wharfinger receipts and other matters pertaining thereto. [Stats. 1877-78, p. 949.]

Codified by §§ 1858-1858f. of Civil Code. See note to § 1858, Civil Code. See post, Acts 4819, 4820.

Citations. Cal. 68/609, 610; 75/855; 108/140; 110/859; 111/880; 123/631. App. 1/491.

ACT 4319.

An act concerning warehouse receipts, and the issuing, sale and transfer thereof, and the sale of goods, wares and merchandise stored in public or private warehouses in other states.

[Approved March 20, 1905. Stats. 1905, p. 322.]

See Civil Code, §§ 1858-1858f. See, also, Act of 1909, p. 487, regulating warehouse receipts, post, Act 4820.

§ 1. That it shall be unlawful for any corporation, firm or person, their agents or employees, to issue, sell, pledge, assign or transfer in this state, any receipt, certificate or other written instrument purporting to be a warehouse receipt, or in the similitude of a warehouse receipt, or designed to be understood as a warehouse receipt, for goods, wares or merchandise stored or deposited, or claimed to be stored or deposited, in any warehouse, public or private, in any other state, unless such receipt, certificate or other written instrument, shall have been issued by the warehousemen operating such warehouse.

§ 2. It shall be unlawful for any corporation, firm or person, their agents or employees, to issue, sell, pledge, assign or transfer in this state, any receipt, certificate or other written instrument for goods, wares or merchandise claimed to be stored or deposited, in any warehouse, public or private, in any other state, knowing that there is no such warehouse located at the place named in such receipt, certificate or other written instrument, or if there be a warehouse at such place, knowing that there are no goods, wares or merchandise stored or deposited therein as specified in such report, certificate or other written instrument.

§ 3. It shall be unlawful for any corporation, firm or person, their agents or employees, to issue, sign, sell, pledge, assign or transfer, in this state, any receipt, certificate or other written instrument evidencing, or purporting to evidence, the sale, pledge, mortgage or bailment of any

goods, wares or merchandise stored or deposited, or claimed to be stored or deposited, in any warehouse, public or private, in any other state, unless such receipt, certificate or other written instrument shall plainly designate the number and location of such warehouse, and shall also set forth therein a full, true and complete copy of the receipt issued by the warehouseman operating such warehouse wherein such goods, wares or merchandise are stored or deposited, or are claimed to be stored or deposited: Provided, that the provisions of this section shall not apply to the issue, signing, sale, pledge, assignment or transfer of bona fide warehouse receipts issued by the warehouseman operating public or bonded warehouses in other states, according to the laws of the state wherein such warehouses may be located.

§ 4. Every corporation, firm or person, or agent, or employee, who shall knowingly violate any of the provisions of this act, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined in any sum not less than fifty nor more than one thousand dollars, to which may be added imprisonment in the county jail for any period not exceeding six months.

ACT 4820.

An act to make uniform the law of warehouse receipts.

[Approved March 19, 1909. Stats. 1909, p. 437.]

Receipts, who may issue.

§ 1. Warehouse receipts may be issued by any warehouseman.

What receipt must embody. Liability for omission.

§ 2. Warehouse receipts need not be in any particular form, but every such receipt must embody within its written or printed terms—

- (a) The location of the warehouse where the goods are stored,
- (b) The date of issue of the receipt,
- (c) The consecutive number of the receipt,
- (d) A statement whether the goods received will be delivered to the bearer, or to a specified person, or to a specified person or his order,
- (e) The rate of storage charges,
- (f) A description of the goods or of the packages containing them.
- (g) The signature of the warehouseman, which may be made by his authorized agent,
- (h) If the receipt is issued for goods of which the warehouseman is owner, either solely or jointly or in common with others, the fact of such ownership, and
- (i) A statement of the amount of advances made and of liabilities incurred for which the warehouseman claims a lien. If the precise amount of such advances made or of such liabilities incurred is, at the time of the issue of the receipt, unknown to the warehouseman or to his agent who issues it, a statement of the fact that advances have been made or liabilities incurred and the purpose thereof is sufficient.

A warehouseman shall be liable to any person injured thereby, for all damage caused by the omission from a negotiable receipt of any of the terms herein required.

Insertion of other conditions.

§ 3. A warehouseman may insert in a receipt, issued by him, any other terms and conditions, provided that such terms and conditions shall not—

(a) Be contrary to the provisions of this act.

(b) In anywise impair his obligation to exercise that degree of care in the safekeeping of the goods intrusted to him which a reasonably careful man would exercise in regard to similar goods of his own.

Non-negotiable receipt.

§ 4. A receipt in which it is stated that the goods received will be delivered to the depositor, or to any other specified person, is a non-negotiable receipt.

Negotiable receipt.

§ 5. A receipt in which it is stated that the goods received will be delivered to the bearer, or to the order of any person named in such receipt is a negotiable receipt. No provision shall be inserted in a negotiable receipt that is non-negotiable. Such provision, if inserted, shall be void.

Duplicates shall be so marked.

§ 6. When more than one negotiable receipt is issued for the same goods, the word "duplicate" shall be plainly placed upon the face of every such receipt, except the one first issued. A warehouseman shall be liable for all damage caused by his failure so to do anyone who purchased the subsequent receipt for value supposing it to be an original, even though the purchase be after the delivery of the goods by the warehouseman to the holder of the original receipt.

Non-negotiable shall be marked.

§ 7. A non-negotiable receipt shall have plainly placed upon its face by the warehouseman issuing it, "non-negotiable," or "not negotiable." In case of the warehouseman's failure so to do, a holder of the receipt who purchased it for value supposing it to be negotiable, may, at his option, treat such receipt as imposing upon the warehouseman the same liabilities he would have incurred had the receipt been negotiable.

This section shall not apply, however, to letters, memoranda, or written acknowledgments of an informal character.

Rights of holder of receipt.

§ 8. A warehouseman, in the absence of some lawful excuse provided by this act, is bound to deliver the goods upon a demand made either by the holder of a receipt for the goods or by the depositor, if such demand is accompanied with—

(a) An offer to satisfy the warehouseman's lien,

(b) An offer to surrender the receipt if negotiable, with such indorsements as would be necessary for the negotiation of the receipt, and

(c) A readiness and willingness to sign, when the goods are delivered, an acknowledgment that they have been delivered, if such signature is requested by the warehouseman.

In case the warehouseman refuses or fails to deliver the goods in compliance with a demand by the holder or depositor so accompanied, the burden shall be upon the warehouseman to establish the existence of a lawful excuse for such refusal.

When warehouseman justified in delivering goods.

§ 9. A warehouseman is justified in delivering the goods subject to the provisions of the three following sections, to one who is—

(a) The person lawfully entitled to the possession of the goods, or his agent,

(b) A person who is either himself entitled to delivery by the terms of a non-negotiable receipt issued for the goods, or who has written authority from the person so entitled either indorsed upon the receipt or written upon another paper, or

(c) A person in possession of a negotiable receipt by the terms of which the goods are deliverable to him or order or to bearer, or which has been indorsed to him or in blank by the person to whom delivery was promised by the terms of the receipt or by his mediate or immediate indorsee.

When warehouseman liable.

§ 10. Where a warehouseman delivers the goods to one who is not in fact lawfully entitled to the possession of them, the warehouseman shall be liable as for conversion to all having a right of property or possession in the goods if he delivered the goods otherwise than as authorized by subdivisions (b) and (c) of the preceding section and though he delivered the goods as authorized by said subdivision he shall be so liable, if prior to such delivery he had either

(a) Been requested, by or on behalf of the person lawfully entitled to a right of property or possession in the goods, not to make such delivery, or

(b) Had information that the delivery about to be made was to one not lawfully entitled to the possession of the goods.

Same.

§ 11. Except as provided in section 36, where warehouseman delivers goods for which he had issued a negotiable receipt, the negotiation of which would transfer the right to the possession of the goods, and fails to take up and cancel the receipt, he shall be liable to anyone who purchases for value in good faith such receipt, for failure to deliver the goods to him, whether such purchaser acquired title to the receipt before or after the delivery of the goods by the warehouseman.

Same.

§ 12. Except as provided in section 36, where a warehouseman delivers part of the goods for which he had issued a negotiable receipt and fails

either to take up and cancel such receipt, or to place plainly upon it a statement of what goods or packages have been delivered he shall be liable, to anyone who purchases for value in good faith such receipt, for failure to deliver all the goods specified in the receipt, whether such purchaser acquired title to the receipt before or after the delivery of any portion of the goods by the warehouseman.

Alteration of receipt, no excuse from liability. Fraudulent alteration.

§ 13. The alteration of a receipt shall not excuse the warehouseman who issued it from any liability if such alteration was

- (a) Immaterial,
- (b) Authorized, or
- (c) Made without fraudulent intent.

If the alteration was authorized, the warehouseman shall be liable according to the terms of the receipt as altered. If the alteration was unauthorized, but made without fraudulent intent, the warehouseman shall be liable according to the terms of the receipt, as they were before alteration.

Material and fraudulent alteration of a receipt shall not excuse the warehouseman who issued it from liability to deliver, according to the terms of the receipt as originally issued, the goods for which it was issued, but shall excuse him from any other liability to the person who made the alteration and to any person who took with notice of the alteration. Any purchaser of the receipt for value without notice of the alteration shall acquire the same rights against the warehouseman which such purchaser would have acquired if the receipt had not been altered at the time of the purchase.

Delivery when receipt is lost, how.

§ 14. Where a negotiable receipt has been lost or destroyed, a court of competent jurisdiction may order the delivery of the goods upon satisfactory proof of such loss or destruction and upon the giving of a bond with sufficient sureties to be approved by the court to protect the warehouseman from any liability or expense, which he or any person by such delivery may incur by reason of the original receipt remaining outstanding. The court may also in its discretion order the payment of the warehouseman's reasonable costs and counsel fees.

The delivery of the goods under an order of the court as provided in this section, shall not relieve the warehouseman from liabilities to a person to whom the negotiable receipt has been or shall be negotiated for value without notice of the proceedings or of the delivery of the goods.

Word "duplicate" is warranty.

§ 15. A receipt upon the face of which the word "duplicate" is plainly placed is a representation and warranty by the warehouseman that such receipt is an accurate copy of an original receipt properly issued and uncanceled at the date of the issue of the duplicate, but shall impose upon him no other liability.

Title of warehouseman.

§ 16. No title or right to the possession of the goods, on the part of the warehouseman, unless such title or right is derived directly or indirectly from a transfer made by the depositor at the time of or subsequent to the deposit for storage, or from the warehouseman's lien, shall excuse the warehouseman from liability for refusing to deliver the goods according to the terms of the receipt.

Claimants may interplead.

§ 17. If more than one person claim the title or possession of the goods, the warehouseman may, either as a defense to an action brought against him for nondelivery of the goods, or as an original suit, whichever is appropriate, require all known claimants to interplead.

Refusal to deliver, excuse from liability.

§ 18. If some one other than the depositor or person claiming under him has a claim to the title or possession of the goods, and the warehouseman has information of such claim, the warehouseman shall be excused from liability for refusing to deliver the goods, either to the depositor or person claiming under him or to the adverse claimant, until the warehouseman has had a reasonable time to ascertain the validity of the adverse claim or to bring legal proceedings to compel all claimants to interplead. If such adverse claimant shall not bring suit and serve summons on the warehouseman within forty-eight hours after the service of notice of his adverse claim, such failure shall act as a complete abandonment of such adverse claim.

Rights of third persons.

§ 19. Except as provided in the two preceding sections and in sections 9 and 36, no right or title of a third person shall be a defense to an action brought by the depositor or person claiming under him against the warehouseman for failure to deliver the goods according to the terms of the receipt.

Goods must correspond with description.

§ 20. A warehouseman shall be liable to the holder of a receipt for damages caused by the nonexistence of the goods or by the failure of the goods to correspond with the description thereof in the receipt at the time of its issue. If, however, the goods are described in a receipt merely by a statement of marks or labels upon them, or upon packages containing them, or by a statement that the goods are said to be goods of a certain kind, or that packages containing the goods are said to contain goods of a certain kind, or by words of like purport, such statements, if true, shall not make liable the warehouseman issuing the receipt, although the goods are not of the kind which the marks or labels upon them indicate, or of the kind they were said to be by the depositor.

Injury to goods.

§ 21. A warehouseman shall be liable for any loss or injury to the goods caused by his failure to exercise such care in regard to them as

a reasonably careful owner of similar goods would exercise, but he shall not be liable, in the absence of an agreement to the contrary, for any loss or injury to the goods which could not have been avoided by the exercise of such care.

Goods must be kept separate.

§ 22. Except as provided in the following section, a warehouseman shall keep the goods so far separate from goods of other depositors, and from other goods of the same depositor for which a separate receipt has been issued, as to permit at all times the identification and redelivery of the goods deposited.

Certain may be mingled.

§ 23. If authorized by agreement or by custom, a warehouseman may mingle fungible goods with other goods of the same kind and grade. In such case the various depositors of the mingled goods shall own the entire mass in common, and each depositor shall be entitled to such portion thereof as the amount deposited by him bears to the whole.

Care of mingled goods.

§ 24. The warehouseman shall be severally liable to each depositor for the care and redelivery of his share of such mass to the same extent and under the same circumstances as if the goods had been kept separate.

Attachments, surrender of receipt.

§ 25. If goods are delivered to a warehouseman by the owner or by a person whose act in conveying the title to them to a purchaser in good faith for value would bind the owner, and a negotiable receipt is issued for them, they cannot thereafter, while in the possession of the warehouseman, be attached by garnishment or otherwise, or be levied upon under an execution, unless the receipt be first surrendered to the warehouseman, or its negotiation enjoined. The warehouseman shall in no case be compelled to deliver up the actual possession of the goods until the receipt is surrendered to him or impounded by the court.

Creditors' right to injunction.

§ 26. A creditor whose debtor is the owner of a negotiable receipt shall be entitled to such aid from courts of appropriate jurisdiction, by injunction or otherwise, in attaching such receipt or in satisfying the claim by means thereof as is allowed at law or in equity, in regard to property which can not readily be attached or levied upon by ordinary legal process.

Lien for lawful charges.

§ 27. Subject to the provisions of section 30, a warehouseman shall have a lien on goods deposited or on the proceeds thereof in his hands, for all lawful charges for storage and preservation of the goods; also for all lawful claims for money advanced, interest, insurance, transportation, labor, weighing, cooping and other charges and expenses in relation to such goods; also for all reasonable charges and expenses

for notice, and advertisements of sale, and for sale of the goods where default has been made in satisfying the warehouseman's lien.

Lien may be enforced against what.

§ 28. Subject to the provisions of section 30, a warehouseman's lien may be enforced—

(a) Against all goods, whenever deposited, belonging to the person who is liable as debtor for the claims in regard to which the lien is assessed, and

(b) Against all goods belonging to others which have been deposited at any time by the person who is liable as debtor for the claims in regard to which the lien is asserted, if such person has been so intrusted with the possession of the goods that a pledge of the same by him at the time of the deposit to one who took the goods in good faith for value would have been valid.

Loss of lien, when.

§ 29. A warehouseman loses his lien upon goods—

(a) By surrendering possession thereof, or

(b) By refusing to deliver the goods when a demand is made with which he is bound to comply under the provisions of this act.

Charges for storage, lien for.

§ 30. If a negotiable receipt is issued for goods, the warehouseman shall have no lien thereon, except for charges for storage of those goods subsequent to the date of the receipt, unless the receipt expressly enumerates other charges for which a lien is claimed. In such case there shall be a lien for the charges enumerated so far as they are within the terms of section 27, although the amount of the charges so enumerated is not stated in the receipt.

Goods may be held.

§ 31. A warehouseman having a lien valid against the person demanding the goods may refuse to deliver the goods to him until the lien is satisfied.

Warehouseman entitled to remedy.

§ 32. Whether a warehouseman has or has not a lien upon the goods, he is entitled to all remedies allowed by law to a creditor against his debtor, for the collection from the depositor of all charges and advances which the depositor has expressly or impliedly contracted with the warehouseman to pay.

How lien may be satisfied. Sale of goods at auction.

§ 33. A warehouseman's lien for a claim which has become due may be satisfied as follows:

The warehouseman shall give a written notice to the person on whose account the goods are held, and to any other person known by the warehouseman to claim an interest in the goods. Such notice shall be given by delivery in person or by registered letter addressed to the last known

Same.

§ 39. A receipt which is not in such form that it can be negotiated by delivery may be transferred by the holder by delivery to a purchaser or donee.

A non-negotiable receipt can not be negotiated, and the indorsement of such a receipt gives the transferee no additional right.

By whom may be negotiated.

§ 40. A negotiable receipt may be negotiated—

(a) By the owner thereof, or

(b) By any person to whom the possession or custody of the receipt has been intrusted by the owner, if, by the terms of the receipt, the warehouseman undertakes to deliver the goods to the order of the person to whom the possession or custody of the receipt has been intrusted, or if at the time of such intrusting the receipt is in such form that it may be negotiated by delivery.

What is acquired by negotiation.

§ 41. A person to whom a negotiable receipt has been duly negotiated acquires thereby—

(a) Such title to the goods as the person negotiating the receipt to him had or had ability to convey to a purchaser in good faith for value, and also such title to the goods as the depositor or person to whose order the goods were to be delivered by the terms of the receipt had or had ability to convey to a purchaser in good faith for value, and

(b) The direct obligation of the warehouseman to hold possession of the goods for him according to the terms of the receipt as fully as if the warehouseman had contracted directly with him.

What is acquired by transfer of receipt.

§ 42. A person to whom a receipt has been transferred but not negotiated, acquires thereby, as against the transferor, the title to the goods, subject to the terms of any agreement with the transferor.

If the receipt is non-negotiable such person also acquires the right to notify the warehouseman of the transfer to him of such receipt, and thereby to acquire the direct obligation of the warehouseman to hold possession of the goods for him according to the terms of the receipt.

Prior to the notification of the warehouseman by the transferor or transferee of a non-negotiable receipt, the title of the transferee to the goods and the right to acquire the obligation of the warehouseman may be defeated by the levy of an attachment or execution upon the goods by a creditor of the transferor, or by a notification to the warehouseman by the transferor or a subsequent purchaser from the transferor of a subsequent sale of the goods by the transferor.

Transferee acquires, what.

§ 43. Where a negotiable receipt is transferred for value by delivery, and the indorsement of the transferor is essential for negotiation, the transferee acquires a right against the transferor to compel him to in-

dorse the receipt, unless a contrary intention appears. The negotiation shall take effect as of the time when the indorsement is actually made.

Transferrer warrants, what.

§44. A person who for value negotiates or transfers a receipt by indorsement or delivery, including one who assigns for value a claim secured by a receipt, unless a contrary intention appears, warrants—

- (a) That the receipt is genuine,
- (b) That he has a legal right to negotiate or transfer it,
- (c) That he has knowledge of no fact which would impair the validity or worth of the receipt, and
- (d) That he has a right to transfer the title to the goods, and that the goods are merchantable or fit for a particular purpose whenever such warranties would have been implied, if the contract of the parties had been to transfer without a receipt the goods represented thereby.

Liability of indorser.

§45. The indorsement of a receipt shall not make the indorser liable for any failure on the part of the warehouseman or previous indorsers of the receipt to fulfill their respective obligations

Mortgagee's warrant.

§46. A mortgagee, pledgee or holder for security of a receipt who in good faith demands or receives payment of the debt for which such receipt is security, whether from a party to a draft drawn for such debt or from any other person, shall not by so doing be deemed to represent or to warrant the genuineness of such receipt or the quantity or quality of the goods therein described.

Validity of negotiation, when not impaired.

§47. The validity of the negotiation of a receipt is not impaired by the fact that such negotiation was a breach of duty on the part of the person making the negotiation, or by the fact that the owner of the receipt was induced by fraud, mistake, or duress to intrust the possession or custody of the receipt to such person, if the person to whom the receipt was negotiated, or a person to whom the receipt was subsequently negotiated, paid value therefor, without notice of the breach of duty, or fraud, mistake, or duress.

Subsequent negotiation.

§48. Where a person having sold, mortgaged, or pledged goods which are in a warehouse and for which a negotiable receipt has been issued, or having sold, mortgaged, or pledged the negotiable receipt representing such goods, continues in possession of the negotiable receipt, the subsequent negotiation thereof by that person under any sale, or other disposition thereof to any person receiving the same in good faith, for value and without notice of the previous sale, mortgage or pledge, shall have the same effect as if the first purchaser of the goods or receipt had expressly authorized the subsequent negotiation.

Seller's lien shall not defeat rights of purchasers.

§ 49. Where a negotiable receipt has been issued for goods, no seller's lien or right of stoppage in transitu shall defeat the rights of any purchaser for value in good faith to whom such receipt has been negotiated, whether such negotiation be prior or subsequent to the notification to the warehouseman who issued such receipt of the seller's claim to a lien or right of stoppage in transitu. Nor shall the warehouseman be obliged to deliver or justified in delivering the goods to an unpaid seller unless the receipt is first surrendered for cancellation.

Fraudulent issue of receipt, penalty for.

§ 50. A warehouseman, or any officer, agent, or servant of a warehouseman, who issues or aids in issuing a receipt knowing that the goods for which such receipt is issued have not been actually received by such warehouseman, or are not under his control at the time of issuing such receipt, shall be guilty of a crime, and upon conviction shall be punished for each offense by imprisonment not exceeding five years, or by a fine not exceeding five thousand dollars, or by both.

False statements.

§ 51. A warehouseman, or any officer, agent, or servant of a warehouseman, who fraudulently issues or aids in fraudulently issuing a receipt for goods knowing that it contains any false statement, shall be guilty of a crime, and upon conviction shall be punished for each offense by imprisonment not exceeding one year, or by a fine not exceeding one thousand dollars, or by both.

Fraudulent issue of duplicates, penalty for.

§ 52. A warehouseman, or any officer, agent, or servant of a warehouseman, who issues or aids in issuing a duplicate or additional negotiable receipt for goods knowing that a former negotiable receipt for the same goods or any part of them is outstanding and uncanceled, without plainly placing upon the face thereof the word "duplicate," except in the case of a lost or destroyed receipt after proceedings as provided for in section 14, shall be guilty of a crime, and upon conviction shall be punished for each offense by imprisonment not exceeding five years, or by a fine not exceeding five thousand dollars, or by both.

When warehouseman is owner.

§ 53. Where there are deposited with or held by a warehouseman goods of which he is owner, either solely or jointly or in common with others, such warehouseman, or any of his officers, agents, or servants who, knowing this ownership, issues or aids in issuing a negotiable receipt for such goods which does not state such ownership, shall be guilty of a crime, and upon conviction, shall be punished for each offense by imprisonment not exceeding one year, or by a fine not exceeding one thousand dollars, or by both.

Penal clause.

§ 54. A warehouseman, or any officer, agent, or servant of a warehouseman who delivers goods out of the possession of such warehouse-

man, knowing that a negotiable receipt the negotiation of which would transfer the right to the possession of such goods is outstanding and uncanceled, without obtaining the possession of such receipt at or before the time of such delivery, shall, except in the cases provided for in sections 14 and 36, be found guilty of a crime, and upon conviction shall be punished for each offense by imprisonment not exceeding one year, or by a fine not exceeding one thousand dollars, or by both.

Same.

§ 55. Any person who deposits goods to which he has not title, or upon which there is a lien or mortgage, and who takes for such goods a negotiable receipt which he afterwards negotiates for value with intent to deceive and without disclosing his want of title or the existence of the lien or mortgage shall be guilty of a crime, and upon conviction shall be punished for each offense by imprisonment not exceeding one year, or by a fine not exceeding one thousand dollars, or by both.

What rules of law, to govern.

§ 56. In any case not provided for in this act, the rules of law and equity, including the law-merchant, and in particular the rules relating to the law of principal and agent and to the effect of fraud, misrepresentation, duress or coercion, mistake, bankruptcy, or other invalidating cause, shall govern.

Interpretation of act.

§ 57. This act shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it.

Definition of certain terms.

§ 58. (1) In this act, unless the context or subject matter otherwise requires—

“Action” includes counterclaim, setoff, and suit in equity.

“Delivery” means voluntary transfer of possession from one person to another.

“Fungible goods” means goods of which any unit is, from its nature or by mercantile custom, treated as the equivalent of any other unit.

“Goods” means chattels or merchandise in storage, or which has been or is about to be stored.

“Holder” of a receipt means a person who has both actual possession of such receipt and a right of property therein.

“Order” means an order by indorsement on the receipt.

“Owner” does not include mortgagee or pledgee.

“Person” includes a corporation or partnership or two or more persons having a joint or common interest.

To “purchase” includes to take as mortgagee or as pledgee.

“Purchaser” includes mortgagee and pledgee.

“Receipt” means a warehouse receipt.

“Value” is any consideration sufficient to support a simple contract.

An antecedent or pre-existing obligation, whether for money or not, constitutes value where a receipt is taken either in satisfaction thereof or as security therefor.

"Warehousman" means a person lawfully engaged in the business of storing goods for profit.

(2) A thing is done "in good faith" within the meaning of this act, when it is in fact done honestly, whether it be done negligently or not.

Prior acts.

§ 59. The provisions of this act do not apply to receipts made and delivered prior to the taking effect of this act.

Same.

§ 60. All acts or parts of acts inconsistent with this act are hereby repealed.

Name of act.

§ 61. This act may be cited as the Warehouse Receipts Act.

TITLE 552.

WARM SPRINGS CREEK.

ACT 4328.

To declare navigable. [Stats. 1871-72, p. 307.]

The code commissioners say of this act: "Probably repealed by Political Code, § 2849, as amended 1891."

TITLE 553.

WARRANTS.

ACT 4328.

To provide for the payment of the controller of state's warrants, which have been lost or destroyed previous to payment by the state treasurer. [Stats. 1891, p. 294.]

See this act, ante, Act 2088.

TITLE 554.

WASHINGTON TOWNSHIP.

ACT 4333.

Yolo County, hogs and goats in Washington Township. [Stats. 1875-76, p. 800.]

Superseded by 1897, p. 198.

TITLE 555.

WATER COMMISSIONERS.

The Political Code, § 19, continued in force all acts creating or regulating boards of water commissioners and overseers in the several townships or counties of the state. For the act governing in any particular township or county, see the particular title. See, also, Acts 4864, 4865.

TITLE 556.
WATER COMPANIES.

ACT 4343.

For the incorporation of water companies. [Stats. 1858, p. 218.]

Amended 1861, p. 228.

Repealed by Civil Code, § 288.

ACT 4344.

To provide for the incorporation of water companies. [Stats. 1852, p. 171.]

Repealed by Civil Code, § 288.

ACT 4345.

For the protection of water companies. [Stats. 1861, p. 533.]

This act provided a penalty for injuring, defrauding, etc. It was superseded by Penal Code, §§ 499, 592, 607, 625.

ACT 4346.

Authorizing boards of supervisors to fix water rates. [Stats. 1880, p. 16.]

Superseded by 1885, p. 95.

Citations. Cal. 129/446.

ACT 4347.

Regulating and controlling the sale, rental and distribution of appropriated water in this state other than in any city, city and county, or town therein, and to secure the rights of way for the conveyance of such water to the place of use. [Stats. 1885, p. 95.]

Amended 1897, p. 49; 1901, p. 80.

Citations. Cal. 74/578; 129/446, 447, 449; 180/318; 189/28; 151/58, 59; 152/780.

App. 8/170, 173, 174.

This act appears in full in the Civil Code, Appendix, p. 836.

"See Osborne v. San Diego etc. Co., 178 U. S. 22, and Fellows v. Los Angeles, 83 Cal. Dec. 472."—Code Commissioners' Note.

ACT 4348.

An act to enable the board of supervisors, town council, board of aldermen, or other legislative body of any city and county, city, or town to obtain data and information, from any corporation, company, or person supplying water to such city and county, city, or town, requiring such boards, town council, or other legislative body to perform the duties prescribed by section 1 of Article XIV of the constitution, and prescribing penalties for the nonperformance of such duties.

[Approved March 7, 1881. Stats. 1881, p. 54.]

Citations. Cal. 152/265, 266.

"Unconstitutional in part (*Fitch v. Supervisors*, 122 Cal. 285). See 1885, p. 95; *San Diego Land Co. v. National City*, 174 U. S. 739."—Code Commissioners' Note. See the Act of 1885, p. 95, ante, Act 4847.

Municipal corporations to fix water rates.

§ 1. The board of supervisors, town council, board of aldermen, or other legislative body of any city and county, city, or town, are hereby authorized and empowered, and it is made their official duty, to annually fix the rates that shall be charged and collected by any person, company, association, or corporation, for water furnished to any such city and county, or city, or town, or the inhabitants thereof. Such rates shall be fixed at a regular or special session of such board or other legislative body, held during the month of February of each year, and shall take effect on the first day of July thereafter, and shall continue in full force and effect for the term of one year, and no longer.

Annual statements to be made by water companies, etc.

§ 2. The board of supervisors, town council, board of aldermen, or other legislative body of any city and county, city, or town, are hereby authorized, and it is hereby made their duty, at least thirty days prior to the fifteenth day of January of each year, to require, by ordinance or otherwise, any corporation, company, or person supplying water to such city and county, city, or town, or to the inhabitants thereof, to furnish to such board, or other governing body, in the month of January in each year, a detailed statement, verified by the oath of the president and secretary of such corporation or company, or of such person, as the case may be, showing the name of each water-rate payer, his or her place of residence, and the amount paid for water by each of such water-rate payers, during the year preceding the date of such statement, and also showing all revenue derived from all sources, and an itemized statement of expenditures made for supplying water during said time.

Additional statement.

§ 3. Accompanying the first statement made as prescribed in section 2 of this act, every such corporation, company, or person shall furnish a detailed statement, verified in like manner as the statement mentioned in section 2 hereof, showing the amount of money actually expended annually, since commencing business, in the purchase, construction, and maintenance, respectively, of the property necessary to the carrying on of its business, and also the gross cash receipts annually, for the same period, from all sources.

Refusal to make statement a misdemeanor.

§ 4. Every corporation, company, or person who shall refuse or neglect to furnish the statements mentioned in sections 2 and 3 of this act, or either of them, or who shall furnish any false statement in relation thereto, within thirty days after having been required or requested to furnish the same as prescribed in sections 1, 2, and 3 of this act, shall be deemed guilty of a misdemeanor.

Copy of statement to be filed.

§ 5. Upon receiving the statements provided for in sections 2 and 3 of this act, the board of supervisors, town council, board of aldermen, or other legislative body, shall cause a copy thereof to be made and filed in the office of the county recorder of such city and county, or of the county wherein such city or town is situated.

Rates to be equal.

§ 6. Rates for the furnishing of water shall be equal and uniform. There shall be no discriminations made between persons, or between persons and corporations, or as to the use of water for private and domestic, and public or municipal purposes; provided, that nothing herein shall be so construed as to allow any person, company, association, or corporation to charge any person, corporation, or association anything for water furnished them when, by any present law, such water is free.

Excess in charging rates forfeits franchise, etc.

§ 7. Any person, company, association, or corporation charging, or attempting to collect from the persons, corporations, or municipalities using water, any sum in excess of the rate fixed as hereinbefore designated, shall, upon the complaint of said board of supervisors, town council, board of aldermen, or other legislative body thereof, or of any water-rate payer, and upon conviction before any court of competent jurisdiction, shall forfeit the franchises and the waterworks of such person, company, association, or corporation to the city and county, city or town, wherein the said water is furnished and used.

Penalty to supervisors neglecting to enforce act.

§ 8. Any board of supervisors or other legislative body of any city and county, city or town which shall fail or refuse to perform any of the duties prescribed by this act, at the time and in the manner hereinbefore specified, shall be deemed guilty of malfeasance in office, and upon conviction thereof, at the suit of any interested party, in any court of competent jurisdiction shall be removed from office.

§ 9. This act shall take effect and be in force from and after the date of its passage.

TITLE 557.**WATERS.****ACT 4352.**

An act to provide for the joint investigation with the federal government of the water resources of the state, and to make an appropriation for the expenses of such investigations.

[Approved March 11, 1907. Stats. 1907, p. 194.]

Board of examiners to contract for topographic maps. Ascertaining methods of distributing water.

§ 1. The state board of examiners are hereby empowered to enter into contracts with the director of the United States Geological Survey for

the purposes of making topographic maps, to the extent of thirty thousand dollars; also for the purpose of gauging streams, determining underground water supplies, surveying reservoir sites and canal locations, for the conservation and utilization of waters of the state, to the extent of twenty thousand dollars; also for the purpose of investigating the economic quality and purity of the water of the state, to the extent of three thousand dollars, provided, no work of the nature heretofore stated shall be done where the same will interfere with the water already appropriated or in reservoirs or now in use for irrigation purposes, or domestic purposes, under the laws of this state; also with the director of the Office of Experiment Stations of the Department of Agriculture for the purpose of ascertaining the best methods of distributing and using the water, to the extent of fifteen thousand dollars; provided, however, that these expenditures for such purposes shall not be in excess of the amounts to be expended by the various departments of the federal government in the collaboration with the specific work named above; and provided further, that in case any of the departments of the federal government above mentioned do not contribute these funds for said co-operation, that the state board of examiners shall have power to enter into such contracts as may seem best to them with the lawfully authorized representatives of any of the departments of the federal government for the expenditure of said remaining balance; and provided further, that said last mentioned expenditure for such purpose shall not be in excess of the amount to be expended by that department of the federal government in collaboration with the state.

Powers of persons employed.

§ 2. In order to carry out the purposes of this act, any person or persons employed hereunder are authorized to enter and cross all lands within this state; provided, in so doing no damage is done to private property; it shall be a misdemeanor, punishable as provided in such cases, for any person or persons to willfully and maliciously remove or destroy any permanent marks or monuments made or erected by any such persons.

Appropriation. When available.

§ 3. The sum of sixty-eight thousand dollars is hereby appropriated for the purposes specified in this act, and the controller of state is hereby authorized and directed to draw warrants upon such fund from time to time, upon the requisition of the state board of examiners and the state treasurer is hereby authorized and directed to pay such warrants; provided, one-half of the appropriation herein shall be available in the fifty-ninth fiscal year, and the remaining one-half of said appropriation shall be available in the sixtieth fiscal year, except that one-half the funds for making topographic maps shall be available during the twelve months immediately following the passage of this act, and the remaining one-half of this fund shall be available during the second twelve months following the passage of this act.

Duty of surveyor general and engineer of public works.

§ 4. It is hereby made the duty of the surveyor general and the engineer of the board of public works to render any assistance desired by the state board of examiners in furtherance of the aims of this act.

This act shall take effect and be in force on and after the passage of this act.

See, also, Acts of 1903, p. 171, and 1905, p. 152, on the same subject matter.

ACT 4353.

To prevent obstructions in navigable streams. [Stats 1850, p. 188.]

Superseded by Penal Code, § 611, and Political Code, § 2350.

ACT 4354.

For the protection of harbors. [Stats. 1861, p. 224.]

This act forbade the mooring to buoys or beacons and the throwing overboard of ballast. It was superseded in part by the Act of 1878-74, p. 619, and entirely by Penal Code, §§ 613, 614.

See ante, Act 4355.

ACT 4355.

Fixing and defining a miner's inch of water. [Approved March 23, 1901. Stats. 1901, p. 660.]

ACT 4356.

Artesian wells, regulating use of, and preventing waste of subterranean waters. [Stats. 1877-78, p. 195.]

Section 8 repealed 1901, p. 284. See Stats. 1907, p. 122.

ACT 4357.

To declare navigable a creek in sections 35 and 36, township 3 south, range 3 west, Mt. Diablo meridian. [Stats. 1867-68, p. 486.]

This act declared a certain creek in Alameda County navigable.

ACT 4358.

To declare certain rivers and creeks navigable. [Stats. 1851, p. 422.]

Amended 1853, p. 182.

Citations. Cal. 79/849.

This act declared certain parts of the following streams navigable: San Jose de Guadalupe, Petaluma River, Sonoma River, Napa River, Suisun River, Sacramento River, Feather River, Yuba River, San Joaquin River, Stockton Slough, Mokelumne River, Tuolumne River, Deer Creek, and American Fork. Substantially incorporated in Political Code, § 2349, with the exception of the San Jose de Guadalupe and the American Fork.

ACT 4359.

Declaring a certain creek in Washington Township, Alameda County, navigable. [Stats. 1871-72, p. 307.]

Probably repealed by Political Code, § 2349, as amended 1891.

ACT 4360.

Alameda County, navigable streams in. [Stats. 1867-68, pp. 486, 680.]

These acts applied, amongst others, to San Leandro Creek and Johnson's Creek. Particular streams, navigability of: See particular title.

ACT 4361.

Authorizing the boards of supervisors of the several counties of this state to declare innavigable streams highways for the floating of logs and timber, and provide for the improvement and use of the same. [Approved March 7, 1889. Stats. 1889, p. 85.]

Repealed by § 25, County Government Act, 1897, p. 457.

ACT 4362.

To authorize the board of supervisors of the several counties in this state to grant franchises and privileges to corporations, associations, or individuals. [Approved March 3, 1881. Stats. 1881, p. 25.]

Superseded by subd. 25, § 25, County Government Act, 1897, p. 466. Repealed 1901, p. 265.

This act authorized supervisors to grant privileges to build booms to hold logs and timber.

ACT 4363.

An act to provide for the location of towpaths along the banks of navigable streams.

[Approved April 1, 1872. Stats. 1871-2, p. 940.]

Authority given.

§ 1. The board of supervisors of each county in the state may, when public convenience for the purpose of commerce requires it, cause to be located and opened a towpath, not exceeding ten feet in width, along the bank or banks of any navigable stream within the county.

Viewers.

§ 2. In order to locate and open such towpath, the same proceedings in regard to petition, viewers, etc., shall be taken as are now by law required to be taken in the respective counties of this state for the purpose of locating and opening public roads and highways.

Water frontage.

§ 3. The owner or owners of any land over which a towpath shall be located and opened shall not be deprived of the water frontage nor of the free use and enjoyment of any land so located, subject only to the right of the public to use the same for the purposes of commerce.

Fences.

§ 4. It shall not be necessary to construct or maintain fences on either side of any towpath so located, but the board of supervisors may make all necessary rules and regulations for the government and management of towpaths, and may provide for the erection of gates thereon and for

the full and complete protection of the property through which the same passes.

§ 5. This act shall take effect from and after its passage.

ACT 4364.

An act to provide for the appointment of an examining commission on rivers and harbors, defining their duties and powers, and prescribing their compensation.

[Approved March 19, 1889. Stats. 1889, p. 420.]

Appointment of engineers.

§ 1. The governor of the state, within thirty days after the passage of this act, shall appoint three competent engineers in good standing in their profession, to be known and called the "Examining Commission on Rivers and Harbors." The persons so appointed shall hold office until the first day of January, eighteen hundred and ninety-one. In case any vacancy may arise in such commission from any cause, the governor shall immediately fill such vacancy by appointment.

Oath of office.

§ 2. Each of said commissioners shall, before entering upon the discharge of his duties, take and subscribe an oath of office. The said commission shall organize by electing a president and secretary.

Duty of commission.

§ 3. The said commission shall make a full and careful examination into the condition of the Sacramento and San Joaquin rivers, and such other rivers and streams as they may select for that purpose. They shall determine what steps are necessary for the rectification and improvement of such rivers and streams, and shall make, or cause to be made, all such necessary and proper surveys, examinations, maps, designs, drawings, estimates, specifications, and exhibits as will enable the Congress of the United States to clearly understand the condition of such rivers, and the cost and expense of properly rectifying and improving the same. The said commission shall, whenever requested by the governor, also make an examination for a similar purpose into such harbors as they may be so required to examine. Said commission shall have power to employ such persons at such compensation as they may deem proper, as surveyors or assistants in any of the work herein above specified.

Report of.

§ 4. The said commission shall make a full report on or before the first day of October, eighteen hundred and ninety, to the governor, on the matters herein specified, which said report shall be in such form and contain such calculations, specifications, and estimates as that it may be to Congress as the basis of an appropriation by Congress for the improvement of the Sacramento and San Joaquin rivers, and other navigable streams of the state, and of such bays and harbors as may have

been examined by said commission as herein provided. The superintendent of state printing shall print and publish as many copies of said report and exhibits as may be ordered by the governor.

Salaries.

§ 5. Each member of the said commission shall receive a salary of two thousand four hundred dollars per annum, payable monthly, and his traveling expenses while engaged in the performance of official duties. Said salary and expenses to be paid out of any money in the state treasury not otherwise appropriated.

§ 6. This act shall take effect and be in force from and after its passage.

ACT 4365.

To create a board of commissioners and the office of overseer to regulate watercourses. [Stats. 1854, p. 76.]

Amended 1857, p. 29; 1860, p. 835; 1861, p. 81; 1862, p. 285.

Citations. Cal. 69/862, 867; 70/191, 192.

Applies only to Contra Costa, Colusa, Los Angeles, Napa, San Bernardino, San Diego, Santa Barbara, Solano, and Tulare counties.

ACT 4366.

Board of water commissioners for Merced County. [Stats. 1860, p. 182.]

ACT 4367.

To provide for the joint investigation with the federal government of the water resources of the state, and of the best methods of preserving the forests thereof; and making an appropriation for the expenses of such investigations. [Approved March 16, 1903. Stats. 1903, p. 171.]

For the Act of 1907, p. 194, relating to the same subject matter, see ante, Act 4352.

ACT 4368.

An act to prohibit within certain limits the mooring and anchoring of house-boats in rivers and streams, and the maintaining of privies, vaults, cesspools, sewer-pipes, and conduits on the banks of rivers and streams, and providing for punishment for violation thereof, declaring such acts to be public nuisances, and providing for the abatement of such nuisances.

[Approved March 6, 1909. Stats. 1909, p. 140.]

House-boats, mooring of. Sewage, discharge of.

§ 1. It shall be unlawful for the owner, tenant, lessee or occupant of any houseboat or boat intended for or capable of being used as a residence, house, dwelling or habitation, or for the agent of such owner, tenant, lessee or occupant to moor or anchor the same or permit the same to be moored or anchored in or on any river or stream, the waters of

which are used for drinking or domestic purposes by any city, town or village within a distance of two miles above the intake or place where such city, town or village water system takes water from such river or stream; provided, however, that in the transportation of any such house-boat on any such river or stream nothing herein contained shall prevent the owner, agent, tenant or occupant of such house-boat from mooring or anchoring the same when necessary within the limits herein fixed and established; provided, such house-boat shall not remain moored or anchored within such limits for a longer period than one day.

It shall be unlawful for any person to erect, construct, excavate or maintain on or near the banks of any river or stream and within two miles above the intake of any water supply used for domestic or drinking purposes in any city, town or village any privy, vault, cesspool, sewer-pipe or conduit which shall cause or suffer to be discharged into said stream or river any sewage, garbage, feculent matter, offal, filth, refuse, or any animal, mineral or vegetable matter, or substance offensive, injurious or dangerous to health.

Penal clause.

§2. Any person who violates any of the provisions of section 1 of this act is guilty of a misdemeanor. Each day's violation of any of the provisions of said section 1 shall constitute a separate and distinct offense.

Public nuisances. Abatement of.

§3. Any privy, vault, cesspool, sewer-pipe or conduit erected, constructed, excavated or maintained on or near the banks of any river or stream within two miles above the intake of any water supply used for drinking or domestic purposes in any city, town or village, which shall cause or suffer to be discharged therefrom sewage, garbage, feculent matter, offal, refuse, filth or any animal, mineral or vegetable matter or substance, offensive, injurious or dangerous to health into such river or stream, and any house-boat or boat intended for or capable of being used as a residence, house, dwelling or habitation, which shall for more than one day be moored or anchored in or upon any river or stream within two miles above the intake of any water supply used for domestic or drinking purposes in any city, town or village are hereby declared to be public nuisances; and it is hereby made the duty of any and all sheriffs, constables, policemen and health officers to immediately abate said nuisance.

§4. This act shall take effect immediately.

TITLE 553.

WATERING RESORTS.

ACT 4369.

An act to secure the safety of the public at bathing places upon the seacoast and lakes.

[Approved March 10, 1909. Stats. 1909, p. 261.]

§1. Every person, firm of persons, or corporation, owning or conducting within this state a bathhouse, or other public place for the pur-

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pose of accommodating bathers, bordering upon or adjoining the seacoast or a lake where the public resort for the purpose of bathing in the open sea or lake shall keep one or more lifeboats fully equipped with oars, oarlocks, and not less than two life-preservers, and two hundred feet of rope, always in good repair and near the bathhouse or resort. Such boat or boats shall have the words "lifeboat" plainly printed or painted upon them, and they shall be used for no other purpose than for saving of life or for other cases of emergency.

§2. Any person, firm of persons, or corporation who fails to comply with the provisions of this act is guilty of a misdemeanor and upon conviction shall be sentenced to pay a fine of not less than ten nor more than two hundred dollars or be imprisoned in the county jail not less than ten days nor more than six months, or by both fine and imprisonment.

§3. This act shall take effect thirty days after its passage.

TITLE 559.

WATSONVILLE.

ACT 4370.

Charter of. [Stats. 1903, p. 647.]

Citations. Cal. 143/472; 150/189.

ACT 4371.

Incorporating Watsonville. [Stats. 1867-68, p. 688.]

Amended 1873-74, p. 48; 1875-76, p. 511; 1877-78, p. 363. Superseded by incorporating, in 1889, under the statute of 1868.

TITLE 560.

WEAVERVILLE.

ACT 4376.

Weaverville, preventing hogs and goats running at large in. [Stats. 1877-78, p. 33.]

Repealed by estray law, 1897, p. 198.

TITLE 561.

WEIGHTS AND MEASURES.

ACT 4381.

To establish a standard of weights and measures. [Stats. 1861, p. 86.]

Amended 1861, p. 846; 1863, p. 737. Superseded by Political Code, §§ 8209-8223.

ACT 4382.

To establish a standard of weights and measures. [Stats. 1891, p. 487.]

"Of doubtful constitutionality, and has never been acted under. (*Condict v Police Court*, 59 Cal. 278; sec. 14, art. XI, State Const.; subd. 5, sec. 8, art. I Const. of U. S.)"—Code Commissioners' Note.

ACT 4383.

An act relating to weights and weighers for warehousemen and wharfingers, and matters connected therewith.

[Approved March 24, 1903. Stats. 1903, p. 387.]

§ 1. All persons now engaged in or who may hereafter engage in a general warehouse, wharfinger or storage business for the storage of grain or other commodities, which in the course of such business are weighed, shall, before they engage in such business, or within sixty days after the appointment of an inspector of weights as provided in section 4 of this act, designate in writing a person or persons as weigher or weighers for such business at the place thereof, and the person or persons so designated shall thereupon, and before they shall do any weighing for such business subscribe, before an officer authorized to administer oaths, the following oath, to wit:

"(I or we) designated as (weigher or weighers) will correctly weigh all grain or other commodities brought to (here designating the business and place of business) for storage or weighing, or which may be taken out from the same, and in all cases render to the person bringing or receiving the same, as the case may be, upon demand, a full, true and correct account of the weight thereof."

§ 2. All persons engaged in the business in the foregoing section mentioned shall keep for and use in such business no other than true and correct scales and weights.

Said designation and said oath shall thereupon and within the time aforesaid, be recorded in the office of the recorder of the county in which such business is to be or is being carried on.

No person, excepting the person or persons thus designated and subscribing and recording such oath shall do any of the weighing of such business.

§ 3. Every person engaged in the business in said section 1 mentioned, shall keep and use therein none but true weights, and scales; said weights must conform to the United States standard of weights.

§ 4. The board of supervisors of the respective counties of the state of California, hereby are authorized to appoint for their respective counties an inspector of weights and measures, who shall hold office at the pleasure of said board and receive such compensation as each board may allow, and whose duty it shall be from time to time to test and examine all scales and weights kept or used in the business in the foregoing sections mentioned, and report all violations of this act to the district attorney of such county, whose duty it shall be to prosecute all violations hereof.

§ 5. Every violation of this act shall be and is punishable as a misdemeanor.

§ 6. Besides the prosecution of the criminal actions herein provided for, every person defrauded by false or incorrect weighing shall be en-

titles to recover from the person owning or conducting such business as in the foregoing sections mentioned, in any court of competent jurisdiction, three times the amount of such shortage in weight of the grain or other commodity so delivered or taken out by him.

TITLE 562.

WEST SIDE IRRIGATION DISTRICT.

ACT 4388.

Act creating. [Stats. 1875-76, p. 731.]

Supplemented 1875-76, p. 885. Superseded by 1877-78, p. 468. Repealed as to Contra Costa and Alameda counties, 1877-78, p. 887.

TITLE 563.

WHARFINGERS.

ACT 4393.

In relation to warehouse and wharfinger receipts, and other matters pertaining thereto. [Stats. 1877-78, p. 949.]

Citations. Cal. 75/855; 108/140, 141; 111/880.

Modified by §§ 1858-1858f of Civil Code.

TITLE 564.

WHARVES.

The Political Code, §§ 2906 et seq., 2520 et seq. and 2567 et seq., seems to have superseded the old legislation on the subject of wharves.

ACT 4398.

Authorizing supervisors of counties to grant the right to construct wharves. [Stats. 1858, p. 120.]

Amended 1869-70, p. 526; 1871-72, p. 908. Superseded by Political Code, 2906 et seq.

TITLE 565.

WHEATLAND.

ACT 4403.

Incorporation of. [Stats. 1873-74, p. 351.]

Amended 1875-76, p. 19; 1877-78, p. 441. Superseded by incorporating, in 1891, under Municipal Corporation Act of 1883.

TITLE 566.

WHITTIER STATE SCHOOL.

ACT 4408.

To establish the Whittier Reform School for Juvenile Offenders. [Stats. 1889, p. 111.]

Amended 1893, p. 328; 1905, p. 80; 1907, p. 8; 1909, p. 988.

Citations. Cal. 93/689; 110/658; 117/536; 122/296, 297, 298, 299, 300-301; 188/495. App. 8/740; 5/471, 472, 478.

In full in Appendix to Penal Code, p. 868.

ACT 4409.

To prevent evil-disposed persons from coming upon the grounds of.
[Stats. 1895, p. 92.]

Codified by §§ 171a, 171b, 171c of Penal Code.

ACT 4410.

Relating to the commitments to the state school at Whittier and to the Preston School of Industry, fixing the authority to examine and commit to such schools with the superior court judges of the counties, and fixing the responsibilities from which commitments are made to the state for the maintenance of the persons committed therefrom; providing the manner of payment therefor and fixing the responsibility of the parents to the counties from which their children are committed. [Stats. 1895, p. 122.]

Citations. Cal. 188/494, 495.

In full in Appendix to Penal Code, p. 884.

ACT 4411.

An act to authorize the board of trustees of the Whittier State School to contract for the care and keeping of girls committed to said school in charitable or benevolent institutions or with private persons, and to pay for their care while in such institution or with such persons. [Approved March 18, 1905. Stats. 1905, p. 226.]

Former act: See Stats. 1908, p. 514.

ACT 4412.

An act to authorize the trustees of the Preston School of Industry and the Whittier State School to acquire property by gift, bequest or devise. [Approved March 6, 1909. Stats. 1909, p. 149.]

TITLE 567.**WILMINGTON.****ACT 4415.**

Incorporating town of. [Stats. 1871-72, p. 108.]

Amended 1871-72, p. 446. Sections 8 and 16 repealed, 1887, pp. 108, 109.

Citations. Cal. 151/652, 658. App. 7/886.

TITLE 568.**WOMAN'S RELIEF CORPS.****ACT 4420.**

To assist the Woman's Relief Corps Home Association to provide for ex-army nurses, and the worthy destitute widows, wives, mothers, and destitute maiden daughters or sisters of veterans who served honorably in the war for the Union, and making an appropriation therefor. [Approved April 1, 1897. Stats. 1897, p. 447.]

Citations. App. 8/529, 530, 531, 532, 534, 536, 537.

Codified by §§ 2210-2210g of Political Code.

ACT 4421.

Making an appropriation for the support of ex-army nurses and indigent widows, wives, mothers, and dependent daughters and sisters of Union veterans, who served honorably during the civil war, at the Woman's Relief Corps Home at Evergreen, Santa Clara County, California. [Approved March 8, 1907. Stats. 1907, p. 181.]

Former act: See Stats. 1908, p. 514.

TITLE 569.**WOODBIDGE.****ACT 4426.**

Woodbridge, to prevent hogs and goats running at large in. [Stats. 1875-76, p. 180.]

Repealed 1897, p. 198.

TITLE 570.**WOODLAND.****ACT 4431.**

Reincorporating. [Stats. 1873-74, p. 557.]

Amended and supplemented 1875-76, p. 818. Amended 1877-78, pp. 84, 447. Superseded by incorporating, in 1890, under Municipal Corporation Act of 1888.

TITLE 571.**WRECKS.****ACT 4436.**

Concerning water craft found adrift. [Stats. 1850, p. 156.]

Superseded by Civil Code, §§ 1864-1872.

ACT 4437.

Concerning wrecks and wrecked property. [Stats. 1850, p. 173.]

Superseded by Political Code, §§ 2403-2418.

TITLE 572.**YACHT CLUBS.****ACT 4442.**

An act to authorize the incorporation of yacht clubs. [Stats. 1869-70, p. 71.]

Repealed by § 288, Civil Code.

TITLE 573.**YOLO COUNTY.****ACT 4447.**

Agriculture, protection of from trespassing animals. [Stats. 1873-74, p. 343.]

Repealed 1877-78, p. 862.

ACT 4448.

Trespassing of animals in. [Stats. 1877-78, p. 360.]

Repealed by 1897, p. 98. See 1901, p. 607.

ACT 4449.

To develop agricultural interests and aid the construction of a canal in Colusa, Solano, and Yolo counties. [Stats. 1865-66, p. 451.]

ACT 4450.

To provide for the drainage of certain lands in the counties of Colusa and Yolo. [Stats. 1877-78, p. 1037.]

ACT 4451.

Regulating fees and salaries of officers of. [Stats. 1873-74, p. 420.]

Amended 1875-76, pp. 170, 566; 1877-78, p. 637. Repealed by County Government Acts: See 1897, p. 533, § 181.

ACT 4452.

Legalizing acts of public administrator of. [Stats. 1860, p. 207.]

ACT 4453.

Public road along boundary line between Yolo and Colusa counties, establishing. [Stats. 1873-74, p. 213.]

ACT 4454.

Roads and highways in. [Stats. 1873-74, p. 490.]

Repealed 1883, p. 5, c. X, § 2.

ACT 4455.

Providing for the distribution of school moneys in. [Stats. 1877-78, p. 1003.]

Repealed by Political Code, § 1858.

ACT 4456.

Supervisors, terms of office and time of meeting of. [Stats. 1873-74, p. 304.]

Superseded by County Government Acts: See 1897, p. 452.

ACT 4457.

Authorizing supervisors to levy taxes for county purposes. [Stats. 1877-78, p. 843.]

Superseded by subd. 12, § 25, 1897, p. 460.

ACT 4458.

Quieting title to certain lands in. [Stats. 1871-72, p. 803.]

ACT 4459.

Quieting title to certain lands in. [Stats. 1873-74, p. 492.]

This act released the title of the state to the United States and its grantees.

ACT 4460.

Quieting title to certain lands in. [Stats. 1873-74, p. 818.]

ACT 4461.

Quieting title to land in. [Stats. 1877-78, p. 943.]

By this act the state relinquished to one George Harget the title to a piece of land in Yolo County.

TITLE 574.**YOSEMITE VALLEY.****ACT 4466.**

To provide for the management of the Yosemite Valley. [Stats. 1880, p. 44.]

Amended 1885, p. 212.

Repealed 1907, p. 268.

ACT 4467.

To appropriate money for the survey, location, and construction of a free wagon road from the town of Mariposa in Mariposa County, to the Yosemite Valley. [Approved March 26, 1895. Stats. 1895, p. 87.]

Repealed 1905, p. 798.

ACT 4468.

Appropriation for the purchase of certain roads within the limits of. [Stats. 1889, p. 142.]

This act appropriates money for the purchase of the "Big Oak Flat and Yosemite Turnpike Road" and the "Yosemite and Wawona Road."

ACT 4469.

To provide for certain improvements in. [Stats. 1901, p. 818.]

This act made an appropriation for an electric and a pumping-plant.

ACT 4470.

An act to recede and regrant unto the United States of America, the "Yosemite Valley," and the land embracing the "Mariposa Big Tree Grove." [Approved March 3, 1905. Stats. 1905, p. 54.]

TITLE 575.**YREKA.****ACT 4474.**

Incorporating Yreka. [Stats. 1857, p. 229.]

Amended 1860, p. 818. Superseded by incorporating, in 1888, under the statute of 1888.

TITLE 576.**YUBA CITY.****ACT 4479.**

To incorporate. [Stats. 1877-78, p. 783.]

Repealed 1907, p. 118.

TITLE 577.
YUBA COUNTY.

ACT 4484.

Marysville and Long Bar townships, act for protection of agriculture and to prevent the trespassing of animals upon private property. [Stats. 1875-76, p. 210.]

Repealed 1897, p. 198.

ACT 4485.

Trespassing of animals. [Stats. 1877-78, p. 360.]

Repealed by estray laws of 1897, p. 98, and 1901, p. 607.

ACT 4486.

Lawful fences in. [Stats. 1863, p. 357.]

Repealed 1871-72, p. 700.

ACT 4487.

Defining a lawful and partition fence in. [Stats. 1871-72, p. 700.]

ACT 4488.

Salaries of officers. [Stats. 1873-74, p. 109.]

Repealed by County Government Act, 1897, p. 553, § 194. Amended 1901, p. 777.

ACT 4489.

Fees and salaries of certain officers. [Stats. 1875-76, p. 522.]

Repealed by County Government Acts: See 1897, p. 533, § 194.

ACT 4490.

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Amended 1877-78, p. 789.

ACT 4491.

Authorizing transcribing of records in. [Stats. 1856, p. 139.]

ACT 4492.

Providing for transcribing records in. [Stats. 1877-78, p. 212.]

ACT 4493.

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Repealed 1873-74, p. 11.

ACT 4494.

Road overseers and road poll taxes. [Stats. 1877-78, p. 157.]

Repealed by Political Code, §§ 2642, 2652, as amended 1891, pp. 474, 478.

ACT 4495.

Separate judges for Yuba and Sutter counties, creation of, and providing for payment of salaries. [Stats. 1897, p. 48.]

ACT 4496.

An act to dissolve Protection District No. 2, of Yuba County, California, and providing for the liquidation and winding up of said dissolved district. [Approved March 21, 1907. Stats. 1907, p. 839.]

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- Materialmen, mechanics or laborers on public works, liens of, Act 1950.
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MELONE DRURY.

- Authorized to sue state, Act 8790.

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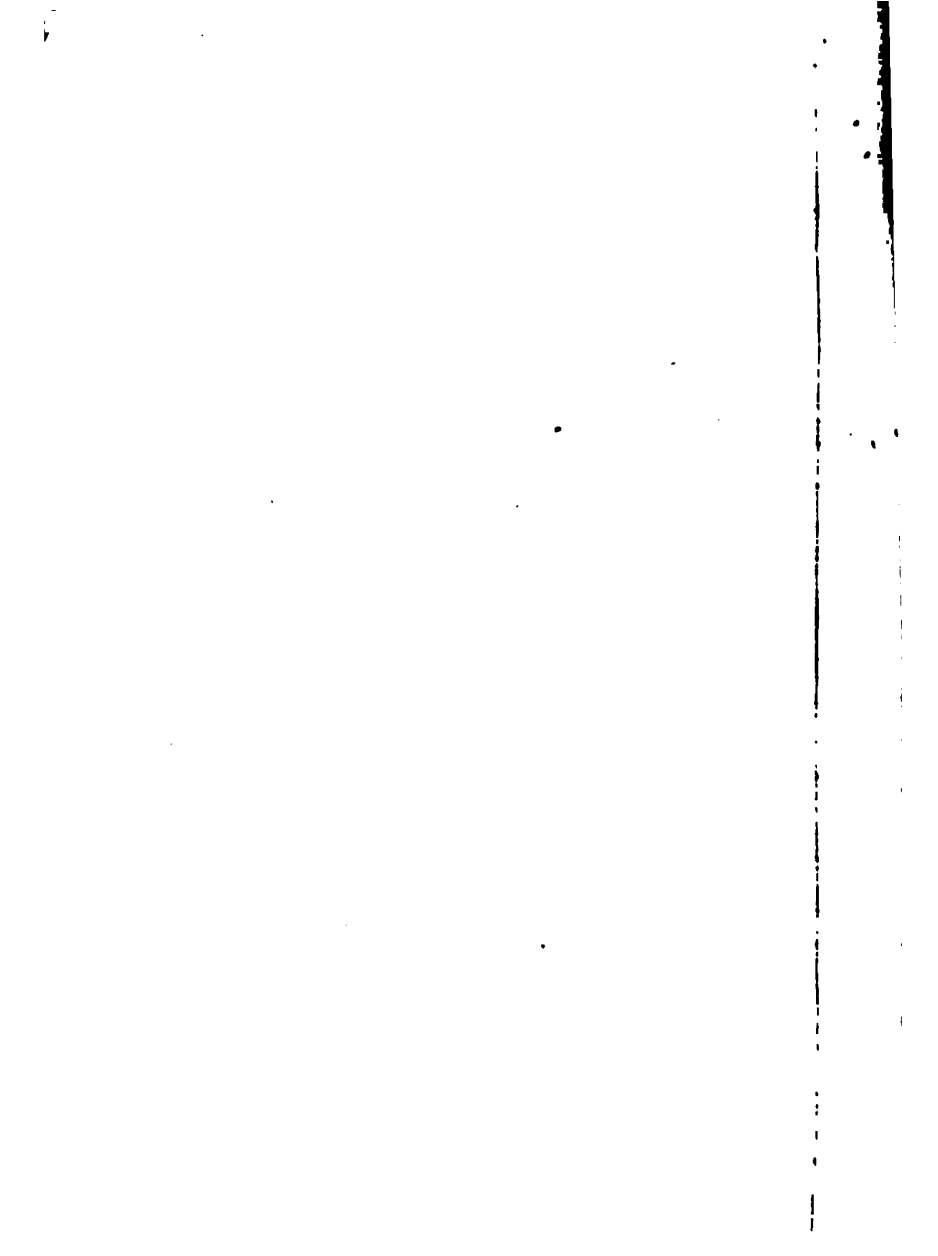
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